

BEFORE THE PUBLIC EDUCATION COMMISSION

STATE OF NEW MEXICO

TRANSCRIPT OF PROCEEDINGS
OPEN SPECIAL PUBLIC MEETING

April 12, 2023

9:00 a.m.

Mabry Hall, Jerry Apodaca Education Building

300 Don Gaspar

Santa Fe, New Mexico

AND

Via Zoom Webinar

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

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1 COMMISSIONER BURT: Commissioner Carrillo.
 2 COMMISSIONER CARRILLO: Yes.
 3 COMMISSIONER INGHAM: (Conducts
 4 conversation with unknown person.)
 5 COMMISSIONER BURT: Commissioner Beck.
 6 COMMISSIONER BECK: Yes.
 7 COMMISSIONER BURT: Commissioner Manis.
 8 COMMISSIONER MANIS: Yes.
 9 COMMISSIONER BURT: Commissioner
 10 Clahchischilliage.
 11 COMMISSIONER CLAHCHISCHILLIAGE: Yes.
 12 COMMISSIONER BURT: Commissioner Ingham.
 13 COMMISSIONER INGHAM: Yes.
 14 COMMISSIONER BURT: Commissioner -- or
 15 Vice Chair Burt, yes.
 16 And Chair Brauer.
 17 THE CHAIR: Yes.
 18 COMMISSIONER BURT: All right. That
 19 passes, seven-zero.
 20 THE CHAIR: Thank you, Vice Chair. And
 21 now we have our Open Forum. We'll use this time,
 22 depending on how many folks that we have. Brigitte
 23 and team, do we know that -- or Missy, do you know
 24 how many people are on the call for Open -- I almost
 25 said "Open Mic" -- for sharing any Open Forum time?

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1 MS. MELISSA BROWN: Nobody signed up for
 2 Public Comment.
 3 THE CHAIR: Okay. Thank you.
 4 Since we're not hearing any folks who
 5 wanted to share anything in our Open Forum, let's
 6 move on to Item No. 4, which is our Consent Agenda,
 7 approval of the minutes and the transcripts from our
 8 previous meetings.
 9 COMMISSIONER BURT: Move to approve the
 10 Consent Agenda.
 11 COMMISSIONER CARRILLO: Second.
 12 THE CHAIR: Can we go ahead and do a
 13 roll-call vote as well, please?
 14 COMMISSIONER BURT: Commissioner
 15 Clahchischilliage.
 16 COMMISSIONER CLAHCHISCHILLIAGE: Yes.
 17 COMMISSIONER BURT: Commissioner Ingham.
 18 COMMISSIONER INGHAM: Yes.
 19 COMMISSIONER BURT: Commissioner Manis.
 20 COMMISSIONER MANIS: Yes.
 21 COMMISSIONER BURT: Vice Chair Burt, yes.
 22 Commissioner Beck.
 23 COMMISSIONER BECK: Yes.
 24 COMMISSIONER BURT: Chair Brauer.
 25 THE CHAIR: Yes.

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1 COMMISSIONER BURT: And Commissioner
 2 Carrillo.
 3 COMMISSIONER CARRILLO: Yes.
 4 COMMISSIONER BURT: All right. That
 5 passes, seven-zero.
 6 THE CHAIR: All right. Thank you, Vice
 7 Chair.
 8 Now we're on to Item No. 5, Discussion and
 9 Possible Action on PEC Template for School Contracts
 10 and on Associated Proposed Rule.
 11 Ms. Barnes, I'm going to pass the -- pass
 12 the time over to you to kind of set the table for us
 13 and share -- share our purpose for today and,
 14 hopefully, the -- what we'll achieve today as well.
 15 MS. JULIA BARNES: Thank you. There are
 16 several documents that we're going to go over today.
 17 After our last meeting, PED provided pretty
 18 substantial comment, some of which was technical and
 19 some of which was substantive.
 20 Because the PEC had already voted on the
 21 proposed form of rule, if you remember, we need to
 22 get a proposed form of rule that then the PED is
 23 going to move forward on behalf of the PEC and start
 24 the intent to do rulemaking. It needs to be posted
 25 in a variety of places for 30 days.

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1 So we weren't able to do it on that draft.
 2 There were too many proposed changes that were not
 3 simply technical in nature.
 4 We've gone back and forth several times
 5 with the PED attorneys and Director Chavez and Patty
 6 Matthews, and then Sam Obenshain has been acting
 7 kind of on behalf of the 20 schools that Patty
 8 Matthews is -- has been hired to represent in this
 9 process.
 10 And, actually, any of the lawyers that are
 11 here, including Patty Matthews, and any lawyers for
 12 the Department, should be moved up for the
 13 discussion, because I believe they're going to kind
 14 of help -- provide their input.
 15 The -- we need to know what the final
 16 rule, proposed rule, is going to look like for a
 17 number of purposes:
 18 First is you guys need to have approved
 19 the form of rule before it goes out. And then it
 20 ties in with the contract document. As everybody
 21 knows, next week you all are negotiating six
 22 contracts, and that contract may change depending on
 23 what's going on with the rule.
 24 So we are trying to put the proposed rule
 25 to bed. I'm not -- the proposed -- the form of

10	<p>1 contract is also there. And I think that it hasn't 2 gotten the review that was necessary because it was 3 a little bit of a chicken and an egg, depending on 4 what happens with the rule as to what happens with 5 the contract, although it is a good start of a 6 draft.</p> <p>7 So I think by the end of the day you need 8 to decide what you're going to do in terms of moving 9 forward.</p> <p>10 No school that I am aware of has asked to 11 not negotiate next week the school-specific 12 indicators. So I think we're going to go ahead and 13 do that; although it would be best to have the 14 contract document completed.</p> <p>15 So we'd like to get a final proposed rule. 16 The PED is going to try to turn that around. I 17 think their deadline is tomorrow in order to meet 18 the next timing. But they made the changes, and 19 they knew what our timing was. So I think at this 20 point, you are accommodating their requests.</p> <p>21 So there's -- I think you should start 22 with the rule.</p> <p>23 I have done both a PDF and a Word 24 document. It's my understanding that Vice Chair 25 Burt is going to take over here in a minute. So she</p>	12
11	<p>1 will probably work from the Word document.</p> <p>2 But, you know, sometimes those documents, 3 when you upload them with tracked changes, it's hard 4 to read. So I also did the PDF just for ease of 5 review.</p> <p>6 My view, although some of the other 7 counsel can jump in, is that the top sections of the 8 rule, I think, are largely there -- well, I don't 9 know. There's one section that really needs to be 10 discussed again, which is the procedures review. 11 Lots of the others in the top part of the document, 12 I think have largely been worked through; although, 13 again, there's some -- some timing issues that the 14 parties were discussing.</p> <p>15 When you get down to the non-renewal and 16 the revocation, I'd -- I didn't see enough agreement 17 to come up with a clean draft. I went ahead and 18 tried a clean draft. And that's the second 19 document. Generally speaking, I took what you 20 approved. I took some of the conversations that we 21 have had with the other lawyers, Director Chavez, 22 and Sam Obenshain, and tried to do a proposal.</p> <p>23 I don't know the reaction, because those 24 documents were finished last night. I did a draft 25 this morning. And I think the Executive Committee</p>	13
	<p>1 had been wanting to move forward. So I'm not sure 2 about that, but I did try to give you a clean 3 document to start to look at, starting from where 4 you all started from.</p> <p>5 THE CHAIR: Julia, really quick -- I'm so 6 sorry. Can someone from the PED let Commissioner 7 Gipson in, please? I think she's in the waiting 8 room.</p> <p>9 (Commissioner Gipson joins the meeting.)</p> <p>10 MS. JULIA BARNES: So my suggestion is to 11 turn this over to -- Document 5b.1, over to Vice 12 Chair Burt to go through it. There's a lot of 13 comments in there, and including comments by me, 14 where I tried to tell you where I thought that we 15 were. And there's a couple of sections that are 16 going to require your conversation to work through.</p> <p>17 When we get down to the revocation and 18 non-renewal section, that's when you might switch to 19 the other document. Or you're welcome to go through 20 a lot of the comments. I just couldn't give you a 21 clean draft in the other way.</p> <p>22 That's it for me at the moment.</p> <p>23 THE CHAIR: Great. Thank you, Julia. 24 Vice Chair Burt, are you okay with sharing the 25 screen as well?</p>	
	<p>1 And I guess that makes sense to use the -- 2 I think the Word document still has the tracked 3 changes on it as well, from what I -- when I opened 4 it up. And so maybe we could use that one. Or if 5 you feel like it would be better to use the PDF so 6 we can see it. But choose your own adventure on 7 that.</p> <p>8 COMMISSIONER BURT: Before we get started, 9 I just have a question of -- I mean, I don't -- and, 10 Dr. Russell, if it lands on you, you can be, like, 11 "Yeah, no problem." But I'm just wondering if 12 Director Chavez is going to be present. Because I 13 know she's done a lot of the talking back and forth 14 between this.</p> <p>15 And so I'm very -- I don't know who we 16 have -- if it's Dr. Russell. Like, if we have a 17 question for PED about some of these changes, who 18 are we directing those to?</p> <p>19 DR. BRIGETTE RUSSELL: Yes. Chair Brauer 20 and Vice Chair Burt, I can speak for Director Chavez 21 and PED this morning.</p> <p>22 COMMISSIONER BURT: Okay. Thank you, 23 Dr. Russell.</p> <p>24 All right, let me start by sharing -- 25 there. Okay. All right.</p>	

<p style="text-align: right;">14</p> <p>1 As I go through this, you all can -- let 2 me make sure I can see people's faces. 3 Julia, for sure, and Ms. Matthews, since 4 you're on here, and any of the Commissioners, as I 5 go through this, if I -- like, I'm going to try to 6 focus on the areas that are still trying to be 7 figured out. So it seems like when I read through 8 this, there's a lot of things that were agreed upon 9 even yesterday and have been, you know, designated 10 in here as that. 11 So I'm going to kind of skip over the 12 places where there's agreement and really just spend 13 our time focusing on the places where it looks like, 14 to me, from reading this, we need to -- we need to 15 talk about. 16 Does that seem appropriate? 17 COMMISSIONER CARRILLO: Sure. (Inaudible) 18 so we can read it better? 19 COMMISSIONER BURT: How does that look? 20 COMMISSIONER CARRILLO: I would do one 21 more step if you could. Thank you. 22 COMMISSIONER BURT: No problem. Oh, 23 actually, I don't know if I can do this, because I 24 can't see the comments now. 25 COMMISSIONER CARRILLO: Okay. That's</p>	<p style="text-align: right;">16</p> <p>1 "pursuant." 2 So, originally, the -- I'll just call it 3 the PED team -- had deleted the itemized types of 4 things that are procedures. 5 The way this rule is set out is it's -- 6 there's a split between high-stakes decisions that 7 you take and the forms and policies, you know, that 8 you use. 9 So the forms and policies that you use 10 follow a more informal process. 11 And so the PED team had taken out this 12 definition. And then some of the specific forms are 13 discussed below. But I think Ms. Matthews and I 14 both felt like this was important to really identify 15 what was there. 16 They have agreed to put it back in. Just 17 wanted to be clear about that. We modified -- 18 "Implementation Year Checklist" was called something 19 else. 20 No. 12 is something that is proposed to be 21 created and added. And, in fact, I think that you 22 might even be able to use this idea. Even recently, 23 on -- on the contract, on -- and particularly on the 24 performance framework, PED -- PEC has tried to reach 25 out to charter schools through a variety of methods.</p>
<p style="text-align: right;">15</p> <p>1 fine. 2 MS. MELISSA BROWN: If I may, there is a 3 way for individual Commissioners to enlarge their 4 screen. You should be able to see at the top your 5 screen, an option for -- for viewing. And you can 6 increase it -- the size of the presentation. 7 COMMISSIONER CARRILLO: Great. Thank you. 8 COMMISSIONER BURT: I'm going to turn off 9 my camera so it doesn't keep kicking me out. 10 Hopefully, it doesn't keep kicking me out. 11 Okay. Let's try this again. 12 Okay. So this is starting on Page 1. And 13 I'm going to kind of just skip Page 1, because it 14 looks like these are just, like, small technical 15 changes. So -- and this is where I'm really 16 focusing is these are the comments on the side. So 17 just technical changes. You know, PED will do these 18 things, so no problem. 19 So the first thing that I saw here was -- 20 MS. JULIA BARNES: Let me -- let me just 21 say one thing here. I just want it to be clear. 22 There was -- if you go up a little bit, 23 please, to the definition of "procedure," there is 24 something to discuss here. First there's a typo 25 there -- thank you -- between "commission" and</p>	<p style="text-align: right;">17</p> <p>1 And you've gotten a lot of comment that way. But 2 then you've also gotten comment that came in kind of 3 later in the game. 4 And there are times where you're going to 5 need to reach out to the charter schools. 6 So the idea would be to create a 7 consultation process using this procedure, to 8 develop it, discuss it with, you know, the -- the 9 charter school. And that should probably be a 10 consultation process to obtain input from State 11 charter schools on procedures, and that that 12 would -- that you would have negotiated a process. 13 And then everybody needs to follow that 14 process. And it might be a more -- it might be an 15 idea that allows you to know exactly what you're 16 going to do in order to get charter schools' input. 17 Charter schools will know what they need to do. 18 And you might be able to even use this 19 process if you make more substantive changes to some 20 of these forms. 21 So we put it in here as something that 22 Patty Matthews and I thought was a good idea. 23 You would develop it pursuant to this 24 rule, so you wouldn't do it now. But that has also 25 been added.</p>

<p style="text-align: right;">18</p> <p>1 So a change they were suggesting to take 2 out off of that idea leaving this intact to really 3 identify process versus high-stakes, and then this 4 idea to put in consultation. 5 COMMISSIONER CARRILLO: Are you going to 6 be adding the word "State"?" 7 MS. JULIA BARNES: I think you should. 8 And put from State charter schools. 9 COMMISSIONER BURT: And is this something 10 that was discussed with the PED team, and they 11 agreed to already? 12 MS. JULIA BARNES: It was discussed with 13 the PED team. I think there was some confusion 14 about whether we were going to develop it at that 15 moment and a concern that there wasn't time to 16 develop it at the moment. But that wasn't the 17 suggestion. The suggestion was to develop this as 18 one of the processes. 19 And, Vice Chair, you had put a semicolon 20 after 11. But there's lots of cleanup that -- for 21 example, there's a lot of cleanup of the citations, 22 according to the ways the State Registry does it. 23 So there's all kinds of cleanup that I just see 24 there. So it was discussed maybe not understanding 25 what we were proposing.</p>	<p style="text-align: right;">20</p> <p>1 what's the benefit indicative to each group? What's 2 the conversation about it? 3 MS. JULIA BARNES: Okay. So under A is 4 really this concept of what you all want. And I'm 5 not sure -- I'm just not going to speak for the PED 6 team on this. I'm just going to -- but the 7 intent -- and I think that A is okay -- but I -- 8 again, someone else can speak up -- is that you're 9 not going to always look at these procedures. 10 You're going to -- they are effective 11 until amended or repealed. So once they're in 12 place, they're in place. They are revised only as 13 needed, and that it applies prospectively, not 14 retroactively. 15 So I think A is okay. But I'm going to 16 turn this over to others to discuss it. 17 B is kind of a complete revision. And if 18 you went down, I think that -- Ms. Matthews' 19 objections to this whole section. 20 COMMISSIONER CARRILLO: I'm sorry. Can 21 you hold on a sec? You're moving -- so on A, you 22 brought up -- we read A. We looked at it. So is 23 there any -- rather than moving on to what's next, 24 do we all approve A? Is there any comment from any 25 of the other attorneys or people on? Or can we have</p>
<p style="text-align: right;">19</p> <p>1 I think it's a good idea. I think that 2 it's kind of unclear on both sides when you guys 3 reach out and what -- what you do to consult with 4 the State charters, and that would be it. 5 COMMISSIONER BURT: And, Dr. Russell, do 6 you know if this is something that -- is the PED 7 objectionable to this addition? 8 DR. BRIGETTE RUSSELL: This addition is 9 fine. 10 COMMISSIONER BURT: Okay. All right. 11 Anything else on this one? Or we're going to keep 12 going? 13 MS. JULIA BARNES: And I think that Patty 14 Matthews is welcome to join in. Any other lawyer -- 15 I don't see any other lawyer here. If they are, 16 they're happy to jump in. 17 BB was okay with everyone? 9.8A -- I 18 don't know. Seemed fine. It's fine. We put it in 19 for clarity between the high-stakes and the 20 procedures. 21 6.9 -- 6.2.9.9 is the one that there is 22 the most conversation around. I can start it for 23 you; although, it's not my issue. 24 COMMISSIONER BURT: Sure. I think if -- 25 yeah. If you want to kind of give us the -- who --</p>	<p style="text-align: right;">21</p> <p>1 just move -- can we move on? I would say then we 2 would move on to B. 3 MS. PATRICIA MATTHEWS: Commissioner 4 Carrillo, yes, I have agreed to that particular 5 change there. Most of my objections are in 6 Section B. 7 COMMISSIONER CARRILLO: Okay. But it 8 seems like we should agree on A before we move on to 9 B. 10 MS. JULIA BARNES: I think she did agree. 11 COMMISSIONER BURT: So just so -- the way 12 I'm kind of listening to it is, as it gets 13 explained, if nobody raises their hand about it, I'm 14 seeing it as we're good. The way I was thinking 15 about doing it is not stopping every time. But if 16 someone raises their hand -- like, you need to be 17 proactive in what you want to talk about. That way 18 we don't -- I don't want to -- I'm trying to save 19 time on not going over everything. 20 So that's where -- I think that's a 21 good -- it's just a good clarification of the 22 process, Commissioner Carrillo. So thank you for 23 that. 24 So I think my assumption, if I don't hear 25 from people, then we go over a section, and we start</p>

<p style="text-align: right;">22</p> <p>1 moving to another one, that then that means we agree 2 on it.</p> <p>3 COMMISSIONER CARRILLO: Just so long as -- 4 just, experience has shown me that somebody ends up 5 going back -- you know, PED ends up coming back and 6 saying, "We're concerned about A." 7 Like, "Wait a minute. You didn't even 8 raise your hand." 9 So just so long as we're all clear, when 10 we move on, we move on.</p> <p>11 MS. PATRICIA MATTHEWS: I do want -- 12 COMMISSIONER BURT: Can I get -- can I 13 get -- is the purple -- just so we know what we're 14 looking at, is the purple the PED revisions and pink 15 or red -- I don't -- I'm a little colorblind for 16 those two colors.</p> <p>17 MS. JULIA BARNES: Red -- red -- red is 18 from PED.</p> <p>19 COMMISSIONER BURT: Okay.</p> <p>20 MS. JULIA BARNES: The red -- there's a 21 bunch of colors. But the red -- this one, A, was 22 discussed several times. So the purple is the 23 result of a conversation yesterday. When you go 24 down to B, I need to make sure it's right, because 25 I'm not sure that --</p>	<p style="text-align: right;">24</p> <p>1 practices according to the schedule set forth herein 2 and are applicable..." -- and that's already in 3 there -- "...prospectively and retroactively." 4 Frankly, I think my comment on this 5 section was that the original language that 6 Ms. Barnes and I had proposed would have eliminated 7 all of B. But you all make a determination on the 8 schedule of when particular policies, procedures -- 9 or procedures that you all have adopted need to be 10 revised, and that you're not locked into this.</p> <p>11 You know, obviously, you're going to make 12 a decision about revising, let's say, for example, a 13 performance framework and a time frame that makes 14 sense in the context of negotiating the contracts. 15 And being locked into a framework doesn't make a lot 16 of sense to me. That's something the Commission 17 could actually do itself.</p> <p>18 So I would -- I would prefer to go back to 19 the original language that you approved on the 23rd. 20 But all of that purple is language from the 21 Department. But, again, I think it's the Commission 22 that should make the determination about what is 23 needed and what does "need" mean. What is that 24 based on, and who decides that? 25 And, again, I think the way it's worded</p>
<p style="text-align: right;">23</p> <p>1 MS. PATRICIA MATTHEWS: Commissioner Burt, 2 this is Patty. Actually, I misspoke. The 3 comments -- if you could scroll back up to A -- my 4 comments on the last version -- and, remember, just 5 so -- to give you all some feel, I've had to look at 6 three different versions of the Public Education 7 Department's changes in the last week. And so every 8 time I get a new version -- and their redlines 9 aren't following. So forgive me if I fumble a 10 little bit here.</p> <p>11 But the comments that I gave back to Julia 12 from yesterday are not reflected here. And I want 13 you to take a close look at what -- how this is 14 revised.</p> <p>15 "The procedures of the Commission are 16 effective until amended or repealed, are reviewed 17 and revised only as needed according to the 18 schedule." 19 "As needed" by whom; right? So it seems 20 to me there should be a very definite statement in 21 there who needs what and what does "need" mean.</p> <p>22 And so my suggestion on this section was 23 that, "The procedures of the commission shall only 24 be revised as determined by the commission to be 25 necessary and consistent with national best</p>	<p style="text-align: right;">25</p> <p>1 does not take into consideration the decision-maker, 2 which should be the Commission.</p> <p>3 MS. JULIA BARNES: And, Vice Chair Burt, 4 the -- Patty's language -- thank you for jumping 5 in -- is the second sentence. "Consistent with 6 national best practices according to the schedule 7 set forth herein and are applicable prospectively 8 and retroactively to the existing charter 9 contracts." 10 COMMISSIONER BURT: Okay. I see that.</p> <p>11 THE CHAIR: Director Chavez, and then 12 Commissioner Gipson.</p> <p>13 DIRECTOR CORINA CHAVEZ: Good morning, 14 everybody. Is there an echo? 15 THE CHAIR: No.</p> <p>16 DIRECTOR CORINA CHAVEZ: Okay. I just 17 wanted to let you know that I'm here and listening, 18 and that tomorrow is the deadline for sending this 19 out.</p> <p>20 So I am hoping that there's not a lot of 21 changes. I also want to say that we have, in fact, 22 spent hours and hours going through line by line and 23 making what I thought was a consensus document.</p> <p>24 So I know that we have discussed the 25 procedure review, and I think it's important for CSD</p>

<p style="text-align: right;">26</p> <p>1 to also have some predictability along with the 2 schools on when the forms are created and what makes 3 sense. 4 I spent some significant amount of time 5 walking through scenarios with Commissioner Gipson. 6 There was a mistake on one of the versions. Patty 7 Matthews is absolutely right. It's been tough 8 reviewing multiple versions. We've all done that. 9 But I think that it was fixed in the most 10 recent version that I saw; although, I haven't 11 reviewed the one that Julia has sent this morning at 12 4:30 a.m. 13 MS. JULIA BARNES: This is Julia. I just 14 want to add, you guys have not reviewed this. So 15 this does not -- and I am not signing off on this 16 draft. 17 So I'm telling you where I can -- what I 18 did here or tried to leave here is put in what 19 Director Chavez has done on this procedure review. 20 This procedure review, I think, is substantially 21 different than how it was drafted before. So I just 22 cut and pasted it. 23 There are -- even as I'm looking at it, 24 there's -- well, I don't know. I think -- I think 25 it's as she presented it. I have no authority to</p>	<p style="text-align: right;">28</p> <p>1 for changes that they could see to us. The 2 Commission would still make the decision as to 3 whether we would review and make the changes. 4 THE CHAIR: Ms. Barnes. 5 MS. JULIA BARNES: I -- I think 6 Ms. Matthews has -- her hand's up. But my only -- 7 THE CHAIR: Oh. That was still up? I'm 8 sorry. Patty, I thought that was up from the last 9 time. Is that especially up for this meeting? 10 MS. PATRICIA MATTHEWS: No, I'm sorry. 11 I'll take it down. I've got to take it down, take 12 my hand down. 13 MS. JULIA BARNES: My only comment on this 14 sentence is, as Patty Matthews has changed it, is 15 not retroactively to existing charter contracts. So 16 there's many of these that I think would be changes 17 to existing charter contracts, not the 18 performance -- not the things attached to the 19 contract, which is most notably the performance 20 framework. 21 But if there's a change to the procedure 22 on amendments, I think that it would be applied 23 prospectively, but that someone with an existing 24 charter contract would have to use that amendment. 25 So I wanted to clear that with -- with</p>
<p style="text-align: right;">27</p> <p>1 make this kind of change on your behalf. And I'm 2 not positive that all of it works. 3 But for -- and you can see that there's, 4 like, two B sections, so that needs to be fixed. 5 So just to -- I don't know, Vice Chair, if 6 you wanted to finish A, though, before we go to B, 7 because I think B is a brand new conversation. So I 8 think it's -- 9 THE CHAIR: Before we move on, Julia, I 10 just want to make sure Commissioner Gipson has a 11 chance to weigh in as well. 12 COMMISSIONER GIPSON: Yeah. Thanks. I 13 like keeping verbiage that the Commission has the 14 input on when something is coming up for review. 15 I'm just wondering -- and I know we've 16 talked about -- do we need to add language that not 17 only includes national best practices, but 18 legislative changes? Or is that just a given, that 19 those changes will take place? That's my only 20 question here with this verbiage. 21 I want to -- I do want to keep in that 22 it's according -- as needed by the Commission. I 23 like Patty's language, 'cause I think included in 24 there is the idea that the Charter School Division 25 could absolutely bring forward any recommendations</p>	<p style="text-align: right;">29</p> <p>1 Patty. Yeah. So take out that last phrase, not 2 "retroactively". 3 And I don't mind clarifying. Since 4 performance frameworks are the contract and a change 5 in the form of contract or change in the form of 6 performance framework won't change the existing 7 contracts, I'm fine with that. 8 MS. PATRICIA MATTHEWS: Julia -- I'm 9 sorry, Chair Burt. I think they are applicable -- I 10 guess not -- I guess that's redundant. You don't 11 need that last clause. If they're only applicable 12 prospectively, they're not applicable retroactively. 13 I'm good. Sorry. 14 MS. JULIA BARNES: If we're ready to move 15 on, I think Section B -- 16 COMMISSIONER BURT: If we have a question 17 before we move on, then I would like to go back to 18 PED now and make sure that they're good on this 19 language, that this would -- that this is not -- 20 that this is okay for them. 21 DIRECTOR CORINA CHAVEZ: But I would say 22 that the thing that I care about is the timeline 23 that says when something is reviewed and when 24 something is approved so that it aligns with not 25 everything starting in January, which at one point</p>

<p style="text-align: right;">30</p> <p>1 it did, or everything starting in July, which at one 2 point did, but it makes sense in terms of the actual 3 cycle of charter school life and actions. 4 COMMISSIONER BURT: So is A okay? Can we 5 put A as good to go? And then we'll go to the dates 6 in B? 7 Director Chavez? 8 DIRECTOR CORINA CHAVEZ: I thought that's 9 how we had edited it. 10 MS. JULIA BARNES: Everything Director 11 Chavez talked about in timelines is in B. 12 COMMISSIONER BURT: So A is good to go, 13 Corina? 14 COMMISSIONER CARRILLO: So -- 15 DIRECTOR CORINA CHAVEZ: Yes, A is good. 16 THE CHAIR: Commissioner Carrillo. 17 COMMISSIONER CARRILLO: The question -- 18 the concern I have -- and I want to make sure that 19 we're good here -- is that when Corina and Brigitte 20 say, "Yes, we're good," that we're not going to then 21 have counsel from the PED come back and say, "Whoa, 22 this doesn't work for us," because we're doing this 23 today; right? We're making this (inaudible) today. 24 So I just want to make sure that, you 25 know, Corina and the representatives of CSD, their</p>	<p style="text-align: right;">32</p> <p>1 The whole premise is -- if it's technical 2 in nature, it doesn't apply at all. So I don't know 3 if that's just a technical thing. But -- so there 4 may be some things once you decide which language 5 you want to follow. 6 But, in general, I think Ms. Matthews has 7 set out a lot of her objections below. 8 THE CHAIR: Commissioner Gipson. 9 COMMISSIONER GIPSON: Yeah. So let's just 10 take a look at one of these -- where this says, "The 11 implementation year checklist shall be proposed in 12 June to be adopted in July." 13 So here's my question. If we're talking 14 about legislation that was passed in the prior -- in 15 the most recent session that could affect what has 16 to be in the implementation year checklist, that is 17 what we're considering a technical change, so that 18 that could just be populated into the current 19 implementation year checklist and wouldn't require a 20 vote for that coming year, that's where I think 21 there's some confusion. 22 So that if we're looking at this that it's 23 going to be in July for the following round of 24 applications and implementation year. But for 25 the -- a school that gets approved in September and</p>
<p style="text-align: right;">31</p> <p>1 decision is the final one also. We don't have to 2 worry about counsel coming back and saying no. 3 THE CHAIR: Thank you, Commissioner. 4 Dr. Russell. 5 DR. BRIGETTE RUSSELL: Chair Brauer, 6 Commissioner Carrillo, yes, PED Legal has indicated 7 that program -- that CSD has authority to agree. 8 COMMISSIONER CARRILLO: Thank you. 9 MS. JULIA BARNES: Vice Chair, let me just 10 set this up. 11 The next section that is -- there are 12 some changes here. However, I think if you go down 13 into the comments, that the schools do not agree 14 with this change for many, many reasons set forth in 15 the comments down below. The -- before you get to 16 10. 17 So there is not agreement on this section, 18 nor has it been presented to you. Generally, it 19 changes -- would change -- it hardwires dates for 20 certain forms. And then, you know, depending on 21 where you go, I think there are some technical 22 changes. For example, on B4 it just -- it just -- 23 it doesn't follow the protocols. Protocols don't 24 allow something to be proposed in June and adopted 25 in July.</p>	<p style="text-align: right;">33</p> <p>1 is going to start that implementation year 2 checklist, that's a checklist that was approved 3 last -- the July of the prior year. And if there 4 are any legislative changes they just automatically 5 get put in. 6 Is that what I -- is that what we're 7 saying? And I'm okay with that if that's the case. 8 But I think that's where there's confusion. 9 MS. JULIA BARNES: If I can address how 10 the document works. 11 A legislative change would be an 12 out-of-cycle procedure, out-of-cycle request. So if 13 something happened legislatively, this timeline 14 wouldn't necessarily have to apply. 15 COMMISSIONER GIPSON: Okay. 16 MS. JULIA BARNES: It presently, though, 17 does not say -- and under C, where it says C and 18 it's struck out, to minor non-substantive changes, 19 you could add potentially legislative changes in 20 there. And then it could be potentially done. 21 It's not added in there right now. The 22 way it is added right now is at the end of the 23 legislative session. 24 So as everybody knows, the Governor made 25 all the final decisions last week, which was in</p>

<p style="text-align: right;">34</p> <p>1 mid-April. You could make those changes any time. 2 So you could get in legislature changes -- 3 it's possible -- and I would need to see what 4 program and Patty Matthews think about adding it in 5 there, into that section that's highlighted right 6 now. You could do that. 7 My -- my concern to just skip the process 8 altogether is you've -- and particularly on 9 something as an implementation year checklist, why 10 would you skip the process? 11 If it's dates only, you already ha- -- the 12 CSD already has an ability to make those changes and 13 small minor technical changes. So, for example, 14 Missy Brown was like, "Oh, that would be a good 15 thing to train on." That would be kind of a minor 16 thing. 17 So could do what you just said. And the 18 way that it presently is drafted is that it's an 19 out-of-cycle and could be done any time for 20 legislative changes. 21 COMMISSIONER GIPSON: You know, I -- and I 22 agree. I think -- I think that's an item that 23 doesn't change a lot, but does need to possibly 24 change if there's, you know -- if there's 25 legislation.</p>	<p style="text-align: right;">36</p> <p>1 this is written makes it seem like there's an annual 2 update that needs to be made? Is that -- is that 3 correct? All these, actually. They have to be 4 proposed by July and adopted in September. So all 5 of these have to be reviewed every July? 6 THE CHAIR: Director Chavez. 7 MS. JULIA BARNES: And I'll just say that 8 would be inconsistent with A. So you have to fix it 9 one way or the other. 10 DIRECTOR CORINA CHAVEZ: So I do think 11 that the way that it's worded does not clarify what 12 Ms. Barnes was saying a minute ago about small 13 technical and -- it just doesn't feel like that is 14 very explicit, and it does make it sound like every 15 year there are potential changes to this. 16 And, actually, every year there are 17 some -- there are some changes to, for example, the 18 implementation year checklist. Every year we update 19 with what passed in legislation. And every year we 20 publish new application kits in the renewal 21 application. 22 So if we're distinguishing with what is 23 small technical with what B now reads, then I think 24 we need some more explicit language. I don't think 25 minor and non-substantive changes are clearly</p>
<p style="text-align: right;">35</p> <p>1 And if we can put that in easy enough so 2 that it just gets, you know, populated in. And I -- 3 but I do believe that at some point in time, like in 4 June at the very least, you know, it should be on a 5 work session if there were those changes so that 6 Commissioners were aware of, you know, those changes 7 and could see it in there. 8 THE CHAIR: Thank you, Commissioner. 9 Vice Chair Burt? 10 COMMISSIONER BURT: Yeah. I just have -- 11 I think my questions are probably going to be for 12 Corina to help me out. 13 So the first thing that I'm concerned 14 about by this is it makes it seem like -- like all 15 of these that we have to review them, that there has 16 to be -- "shall be proposed in December," "shall be 17 proposed in September," and "adopted by" -- so I 18 feel like it locks in -- it actually prohibits us 19 from not having to look at these every year. 20 And so I'm concerned by that, first of 21 all, that I don't think that it should be that we 22 have to do this every year. Ideally we're not doing 23 this ever, unless there's a change that needs to 24 happen. 25 So that's my first question is the way</p>	<p style="text-align: right;">37</p> <p>1 defined. Those are just words. 2 THE CHAIR: Commissioner Gipson. 3 COMMISSIONER GIPSON: Yeah. And I -- you 4 know, I agree. Corina and I spent a long time, and 5 I, trying to explain to Corina that we're trying not 6 to do this every year and have to -- to look at it, 7 that if it's a date stamp -- and that's why I'm 8 trying to get those -- if we can nuance this so that 9 legislative changes can get populated in without 10 having to open this document every year and review 11 it and potentially have to vote on it, that only if 12 those changes -- if changes are necessary do they 13 come forward to us. 14 But those -- you know, I agree. I think 15 technical changes are -- you know, new dates, if 16 there's a date stamp so schools know that this is 17 the most current version, fine, that doesn't require 18 a review. But that we -- you know, we are not -- 19 and I agree with the vice chair -- we -- and we said 20 this at the last meeting -- we are not looking to 21 have to review these every year. 22 And schools think it's on the agenda so 23 they could change it. And if it is on the agenda 24 and it gets opened up, we end up going down rabbit 25 holes on things that really don't have a lot of</p>

<p style="text-align: right;">38</p> <p>1 substance but can change and have effect on the 2 schools. And that's what we're trying to avoid. 3 THE CHAIR: Great. Corina, I saw that you 4 put something in the chat. But can you go ahead and 5 voice that, please? 6 DIRECTOR CORINA CHAVEZ: So I said I 7 understand that we aren't making substantive changes 8 to these documents. And I don't think that we make 9 major changes. We are obviously right now making 10 major changes to the performance framework. But, 11 nonetheless, I think that if something is in rule, 12 that it should -- it should be clear about what is 13 minor, technical, non-substantive. Those are 14 descriptors that could be interpreted by people that 15 might not be in the -- 16 THE CHAIR: Corina, I think you might have 17 chopped out. 18 DIRECTOR CORINA CHAVEZ: Sorry. I said 19 that the people that are in the room right now might 20 not be the people reading this rule. So I want to 21 make sure that when it says non-technical, 22 et cetera, that the language there is -- excuse 23 me -- non-substantive -- that that is clear. 24 And I don't know -- maybe we want to take 25 the IY checklist out of here, because we do update</p>	<p style="text-align: right;">40</p> <p>1 want to -- I don't want to get locked into having to 2 do it. 3 So as long as the language is clear that 4 it's not a requirement, but if it is, that it -- 5 that that's -- that's fine. 6 But I still -- even outside of that, I'm 7 concerned by some of these dates. It's -- I just -- 8 I don't -- I'm -- I'm confused, I guess, why 9 we're -- once again, I just don't like the idea of 10 having to lock in, like, specific dates for things. 11 Like, if it's -- for the renewal 12 application, for example. Like, "shall be proposed 13 in December and adopted by February of the current 14 fiscal year for use in the following fiscal year." 15 But I think -- well, actually I guess I'm 16 confused, also, why this got deleted, that anything 17 that we do is effective on July 1st. 18 I mean, that's just -- I feel like that's 19 a really simple thing to keep. And then if there's 20 any exceptions, make that exception in here, because 21 then we wouldn't need to do something like that it's 22 to be used in the following fiscal year. 23 I mean, it's -- this, to me, these dates 24 are really confusing why they're different for 25 different things. For me, I'd rather everything</p>
<p style="text-align: right;">39</p> <p>1 it every year. And I don't want somebody to take 2 the timeline and say, "Okay, we can't do that 3 because look at rule." 4 MS. JULIA BARNES: The issue is you put in 5 one month versus two. The process is two. You can 6 add language to this section, the first B, that says 7 "New or revised commission procedures, if revised; 8 the renewal application, including the criteria for 9 evaluation, if revised; the new application kit, if 10 revised," so that, you know, it's consistent that 11 it's not different from A. That's why we moved A 12 up. 13 And then I just want to reiterate that 14 there's lots of comments and reaction to this down 15 below that either Patty Matthews can articulate or 16 you can look at. 17 COMMISSIONER BURT: I do still have more 18 questions about this, Chair Brauer. 19 THE CHAIR: Go ahead, vice chair. Sorry. 20 COMMISSIONER BURT: That's okay. 21 Okay. So I guess I'm -- so if I think 22 about -- I'm okay if it's just, like, not making it 23 to where we have to -- like, if "if revised" allows 24 us to not have to do it every year, then that's 25 fine. Like, I can live with that. I just don't</p>	<p style="text-align: right;">41</p> <p>1 just -- it can be -- whatever -- like, whatever is 2 most convenient for CSD and the Commission, get it 3 done. And then it's effective the July 1 of the 4 next fiscal year. 5 But leave it to where we have the 6 flexibility on both sides, on the Division's part 7 and on the Commission's part, to do things whenever 8 it makes most sense, whenever it's most timely for 9 the Division and the Commission, and then not have 10 it be effective until July 1 of the following school 11 year. 12 That, to me, is what makes the most sense. 13 The ones where it says that they're going 14 to be developed in the same fiscal year, like -- I 15 just don't think I can ever support that. Like, 16 anything that's in the current -- like, these 17 procedures being done and then adopted in September 18 when the school year has already started, and then 19 they have to use it in the same fiscal year, I 20 just -- it's -- I can't support these. It just 21 doesn't -- it's not appropriate to me to do that to 22 schools. 23 I mean, schools are planning ahead for 24 their fiscal years before their fiscal year starts. 25 And I feel like we should be doing the same, is that</p>

1 we should be planning for the next fiscal year
2 before the fiscal year starts.

3 So for me, I think these procedures need
4 to be proposed and adopted by July 1, and then they
5 can be used, you know, in the fiscal year. So they
6 have to be adopted by June 30th. I don't care when
7 in the year these happen, as long as they don't go
8 into effect until July 1 of the following year after
9 they're adopted.

10 So I would like to know why July 1 -- why
11 this was struck out by PED and why there are so many
12 different dates and times restricting us to do it.

13 THE CHAIR: Commissioner Gipson.

14 COMMISSIONER GIPSON: Well, that's --

15 COMMISSIONER BURT: I'm sorry. That was a
16 question for PED.

17 THE CHAIR: Got you.

18 Corina, do you have the answer to that?

19 DIRECTOR CORINA CHAVEZ: Dr. Russell had
20 her hand up.

21 THE CHAIR: Okay. I didn't see that.

22 Dr. Russell, if you had your hand up, I apologize.

23 DR. BRIGETTE RUSSELL: Thank you, Chair
24 Burt -- Brauer -- I actually lowered it. And since
25 Director Chavez is here, I'll let her answer this,

1 unless she wants me to take the question.

2 DIRECTOR CORINA CHAVEZ: I keep getting
3 kicked out. So if you want to, I think we're on the
4 same page.

5 DR. BRIGETTE RUSSELL: Thank you, Director
6 Chavez.

7 So, Chair Brauer and Commissioners, the
8 reason we had several different deadlines was
9 because the natural time to review an application is
10 after we've just been through the cycle.

11 So a renewal application -- renewal
12 hearings are in December. And the CSD has reviewed
13 the prior year's renewal applications between
14 October and December. And so that's when we
15 would -- that's when we would have ascertained any
16 changes that -- that needed to be made.

17 Same thing with the new application.
18 Because new applications are voted on in August,
19 that's -- the CSD would have just identified any
20 issues that should be changed for the -- for the
21 future -- for the following year.

22 Implementation year checklist, June,
23 effective July, because that's when legislative
24 changes have been made.

25 COMMISSIONER BURT: All right. So I guess

1 my question is could we -- this is what I think
2 makes the most sense. That, to me, all sounds very
3 internal. Like, CSD can do this at -- like, I
4 don't -- I don't understand the reason about putting
5 this into rule, because I actually think it locks
6 you down tighter instead of allowing you the process
7 to do -- I mean, if you want to -- to me, if you
8 want the renewal application to get proposed in
9 January and adopted April, I don't care -- like --
10 like, to me, the internal process of how CSD reviews
11 things and then proposes updates, I think that can
12 be left internally, which gives you -- the CSD
13 Division, the most flexibility with these timelines,
14 because, once again, it's not -- it's for use in the
15 following fiscal year. So it would be effective as
16 of July 1.

17 So same thing here. "Used in the
18 following calendar year," which I don't know -- so
19 does that mean January? "Adopted by" --

20 DR. BRIGETTE RUSSELL: Calendar year, yes,
21 would mean January. And --

22 COMMISSIONER BURT: So that's -- once
23 again -- so -- so this is -- to me, that's a little
24 problematic to me to have something done in November
25 and used two months later instead of having it

1 done -- once again, I just really feel like whatever
2 is there as of July 1, just keep it there. And if
3 it needs to be updated, that goes for the following
4 year. Like, let things just stay how they are
5 instead of doing updates throughout a fiscal year
6 that get implemented immediately.

7 Unless, once again, I think the only --
8 the only saving for that is this clause down here.
9 And I agree with Commissioner Gipson that if we can
10 include legislative changes in there, it allows that
11 flexibility to get it done in the same fiscal year.

12 But outside of that, I really -- I feel
13 like this whole thing can just be removed, and it
14 should just be anything that the Commission does
15 differently is done by -- for July 1 of the next
16 fiscal year. And if that delays the, like,
17 immediate change -- like, there's a change that
18 needs to happen for the new application kit, if it's
19 something that's more -- like, to me, the only
20 things that this would apply to would be maybe
21 philosophical changes or value changes.

22 Because if it's a legislative change, it
23 can be done any time. So we can take those out.
24 Any legislative change can be done any time. So
25 these are really just, like, we want these

<p style="text-align: right;">46</p> <p>1 additional things or we want to remove this thing, 2 they don't feel urgent enough to propose it in 3 November and have it effective in January, they can 4 always just be effective the July after that and not 5 have these quick turnarounds. 6 I feel like that's the biggest thing that 7 I hear over and over again from schools is, "Stop 8 changing things in the middle of a fiscal year. 9 Like, please don't do that to us. Don't change 10 things." 11 We're changing it, but they've already 12 started these things. You know, if we're changing 13 the new application kit in September, and then it's 14 adopted in November, and then they start using it in 15 January, I mean, if I'm doing a new application, I'm 16 looking well before January to look at the new 17 application. Like, I'm already looking at it before 18 that. 19 So I just don't like the idea of changing 20 things on people within the same fiscal year. I 21 think that -- if someone wants to do a new school 22 application, they should be able to look at July, 23 the year before they apply, and it is the correct 24 one. 25 So I guess that's what -- I'm just</p>	<p style="text-align: right;">48</p> <p>1 Fine. That's up to CSD to do it. But 2 we're spending so much time on this. Are we okay 3 with just taking that all out if it's covered in the 4 languages in B and below? And why keep looking at 5 this? And why keep putting people into corners 6 about when things have to be done? 7 THE CHAIR: Thank you, Commissioner. 8 Commissioner Carrillo. Then Ms. Matthews. 9 COMMISSIONER CARRILLO: I would agree 10 with -- with Commissioner Gipson. And I seem to 11 remember -- and maybe this is what Ms. Matthews is 12 going to say -- that when we made the changes to A, 13 that we could eliminate B. I mean, I remember 14 hearing that earlier. So let's eliminate B and -- 15 gives us more flexibility as well. 16 THE CHAIR: Thank you, Commissioner. 17 Ms. Matthews and (inaudible). 18 MS. PATRICIA MATTHEWS: Thank you, 19 Commissioner Carrillo and Commissioner Gipson. 20 That's exactly my point. I have a lot of technical 21 issues with how the CSD framed 1 through 4, which I 22 think we could just skip over if we take it out. 23 And I want to reiterate. One of my 24 primary concerns is exactly what Commissioner Burt 25 changed at the very beginning is it was an</p>
<p style="text-align: right;">47</p> <p>1 interested in -- if we could make a lot of this 2 stuff internal, allow CSD to have more flexibility, 3 allow the Commission to have more flexibility, and 4 then rely on -- you know, if there's things that 5 have to be changed then they're covered here. 6 THE CHAIR: Commissioner Gipson. Then 7 Commissioner Carrillo. 8 COMMISSIONER GIPSON: So I guess my 9 question is can we take out all of No. 1, 2, 3, and 10 4, and just leave it as B, New or Revised Commission 11 Procedures, because I agree. I feel like we're 12 completely just reiterating the last part of -- not 13 the last part, but a big chunk of the meeting from 14 last month. Because this is exactly what we said. 15 And if we fix the concern about changes being 16 legislative changes with what was put into C, then 17 why not take the rest of that out and give -- we 18 said this at the last meeting. 19 CSD can review their own internal 20 procedures any time they want to. Any time. It 21 doesn't -- it doesn't limit it. This shouldn't 22 limit it. 23 So I understand the internal issue about 24 B: Well, we just did this, so we're going to take a 25 look at it.</p>	<p style="text-align: right;">49</p> <p>1 appearance as if you could change these all the 2 time, or that there was some sort of requirement to 3 do so. 4 And I would point out that a, c, d, 5 probably e are all things that need to be -- I don't 6 want to use the word "stagnant" -- what's the word 7 I'm trying to think of? "Static." They have to 8 stay the same for the term of the contract that 9 they're in. So we don't -- you're not going to be 10 changing those that frequently. So I appreciate 11 that. Just take it out. 12 The things that -- I'm not quite sure why 13 the Division hasn't gotten advice from counsel. But 14 when you talk of substantive changes, you're talking 15 about things that are required by law. 16 So the only thing that the Division should 17 have the latitude to say, at the beginning of your 18 (inaudible) -- right? -- what are your timelines, 19 when are you having your training, all those things. 20 And those are all, as the Commissioners have said, 21 internal things that the Division has the latitude 22 to do. 23 Just let the Commission -- I mean, you all 24 decide how you do that. But so I'm in agreement 25 with taking out B completely -- or -- yeah -- or</p>

<p style="text-align: right;">50</p> <p>1 just "New revised procedures shall be effective as 2 of July 1 unless the Commission identifies 3 exceptional," and then get rid of 1 through 4. All 4 the conversations the Commissioners have had are 5 frankly my objections to 1 through 4. 6 And I will say that some of the things 7 that concern me are, for example, is this 8 implementation year checklist, that's a critical 9 body of information a brand new charter school needs 10 to be aware of when they're applying, not a month 11 before they're opening their operations, not 12 "operations", but getting started. 13 And so some of this stuff really ought to 14 be frankly set a year in advance for applicants to 15 know what's going on. 16 So I appreciate all the comments from the 17 Commissioners. I agree with them. 18 THE CHAIR: Thank you, Ms. Matthews. 19 Commissioner Beck. 20 COMMISSIONER BECK: Yeah. I agree with 21 Commissioner Burt. I haven't been through this 22 process yet, because I'm new. But as a teacher and 23 head of the instructional council, when we would get 24 things that would have to be effective within the 25 school year, it really created a significant amount</p>	<p style="text-align: right;">52</p> <p>1 And I don't know if we want to -- I 2 guess -- part of -- we don't need to do it, and 3 maybe we could talk about it when we did that 4 documentation. But those are of a very different 5 level than the closure protocol, for example, which 6 is just how you step through and -- you know, I 7 mean, it's -- difficult things happen to the school. 8 But it's not the contract that's going to affect all 9 of the schools moving forward, and it's not the 10 performance framework. 11 So I didn't know if we wanted -- if we 12 take these out, if we also put in that something 13 triggers the consultation, because some are more 14 serious than others. 15 And the other thing that you all were 16 looking to do was to not have to have a school 17 monitor the PEC meetings all the time in case 18 something came up. 19 But I'll just throw that out there. And I 20 was just trying to think about reasonable process. 21 THE CHAIR: Thank you. Vice Chair Burt. 22 COMMISSIONER BURT: Yeah. I guess, 23 like -- this is very similar to the conversation we 24 had last month. 25 So I guess my question is just going to</p>
<p style="text-align: right;">51</p> <p>1 of stress and concern, rather than -- knowing that 2 whatever is changed won't be effective until July, 3 it allows the school to make the necessary changes 4 without the stress level of within the same school 5 year. 6 I think -- so I strongly agree with the 7 idea -- and I don't know why it was taken out -- 8 effective July of the following fiscal year. 9 THE CHAIR: Thank you, Commissioner Beck. 10 MS. JULIA BARNES: I can't figure out how 11 to raise my hand. I just -- 12 THE CHAIR: Go ahead, Julia. 13 MS. JULIA BARNES: I -- I'll raise this. 14 If you go back to the list, there are some that are 15 more technical forms and some that really are 16 substantive between the parties, like the contract 17 and the performance framework. 18 So once there's a contract and a signed 19 performance framework, those aren't going to change 20 without amendments. So I'm not talking about that. 21 But the contract and performance 22 framework, to me -- yeah, that's a good change -- to 23 me, potentially, are something that might trigger 24 this charter school -- the State charter school 25 consultation process.</p>	<p style="text-align: right;">53</p> <p>1 be -- 2 THE CHAIR: Vice Chair Burt, you cut out. 3 COMMISSIONER BURT: Yeah, sorry. It keeps 4 kicking me out. 5 If we -- I'm very concerned about B, you 6 know. If this is something that is a make-or-break 7 it for Director Chavez or Dr. Russell, because I 8 don't want to go to tomorrow and the rule not be 9 able to get published because this is problematic 10 for CSD. 11 So I don't know if you -- I just want to 12 give the opportunity for you all to talk about, 13 like, the negative impacts on -- if these were to be 14 taken out, and it was just that any changes can 15 happen, but they just don't get -- they're not 16 effective until July 1, except for if they're minor, 17 non-substantive, a document that sets scheduling 18 dates or updates due to legislative changes, those 19 can happen in the same fiscal year. 20 But is there -- I'm trying to -- I think 21 you all would know better than us about if there's 22 other negative impacts that we're not considering 23 about being able to do that. 24 If we -- if we were to remove that, is 25 that something that's, you know, going to be</p>

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1 alarming for you guys when you go into approving
 2 this and getting it posted tomorrow.
 3 THE CHAIR: Dr. Russell or Director
 4 Chavez?
 5 DR. BRIGETTE RUSSELL: Chair Brauer,
 6 Director Chavez's audio is out. I -- I think she
 7 needs to address this, because I -- so to confirm.
 8 Just so I understand -- I understand
 9 correctly -- if -- when renewal applications are
 10 analyzed in, say, this fall, in October 2023, and we
 11 realize there's something that needs to be changed
 12 for next year's renewal application, we can bring
 13 that to the Commission. The Commission can vote and
 14 say, "Yes, we're going to make this change," and
 15 then it would be effective for July 1st, 2024. So
 16 schools submitting their renewal application in Fall
 17 2024 would be using the changed application. Am I
 18 understanding the timeline correctly?
 19 COMMISSIONER BURT: That's correct.
 20 DR. BRIGETTE RUSSELL: Then I think we're
 21 fine with that.
 22 COMMISSIONER BURT: Or, I mean, the other
 23 option is -- the other thing that is also a
 24 possibility is even that -- I mean, we could even be
 25 one more extra year delayed to where, you know,

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1 maybe the renewal schools for 20- -- the schools
 2 that are turning in 2024, maybe they use the one
 3 right now, and they -- because maybe they already
 4 started working on it based off of the current one;
 5 right?
 6 So if you make those changes in October,
 7 maybe they already started doing it, and maybe
 8 they're not substantive enough to where you're,
 9 like, "You know what? Maybe we need to, like, make
 10 these schools change it for July 1."
 11 So maybe even these renewal schools, use
 12 your template as it is right now, except for if
 13 they're -- if it's your scheduling document, that
 14 can be changed and effective right away; if it's a
 15 legislative change, that can be changed and
 16 effective right away.
 17 So I think it even could allow for there
 18 to even be a further delay if it's something that is
 19 a good thing for schools. Like, if it's not
 20 substantive, it could even be that. Yeah. Because
 21 I don't know if July is a -- is too late for your
 22 renewal schools that are applying to you and having
 23 it done by October; right? Like, they have to
 24 submit their renewal application in October? Is
 25 that right?

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1 DR. BRIGETTE RUSSELL: Last year, the
 2 Commission voted for September.
 3 COMMISSIONER BURT: Right. So this is
 4 what I would say. I would say your 2024 -- wait.
 5 So where are we at?
 6 DR. BRIGETTE RUSSELL: We're in Fall 2023.
 7 So October 2023 for schools whose contracts end in
 8 June 2024.
 9 COMMISSIONER BURT: Yeah. Okay. So what
 10 I would say the best -- like, this is what the
 11 intention is behind it, Brigitte, to allow for more
 12 time for schools to not have things to change.
 13 So the renewal schools for 2024, you guys
 14 go through that process. Between October and
 15 December, you are doing an internal review. I would
 16 say you do propose those updates. The Commission
 17 votes on them. They go into effect July 1.
 18 But maybe -- unless it's something that is
 19 legislative, maybe those -- that's not what's used
 20 by your 2024 renewal. I think your 2024 renewal
 21 would use the current template, and that that July 1
 22 change that goes into effect would be for your next
 23 year's renewals, because that way it's not -- I
 24 think it's one extra year delayed than what you were
 25 originally considering, Dr. Russell.

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1 DR. BRIGETTE RUSSELL: And that, I
 2 believe, is the issue that Director Chavez has, that
 3 it ties us to an application, you know, a year and a
 4 quarter, a year and a half out.
 5 I -- I mean, I could live with that. But
 6 I -- I mean -- but I'm not -- I'm not the director.
 7 COMMISSIONER BURT: Yeah, I hear you. And
 8 that's exactly -- I think that's exactly what -- I
 9 understand -- I think it's a big shift in the way
 10 that we are doing business for sure -- right? --
 11 because we are doing it much quicker turnaround
 12 times.
 13 And I think the intention is to have it be
 14 longer term and more consistent for the schools. So
 15 it is that the application is available and
 16 accessible a year before it's due, instead of just a
 17 couple of months before it's due.
 18 Because even if we made that change in
 19 December, now you're only nine months away from the
 20 new application being done. But also, in addition,
 21 we're also, you know, when schools are thinking
 22 about applying, they're probably looking at that
 23 application before they even do their letter of
 24 intent; right? Like, they're looking at the letter
 25 of intent, they're looking at the application, and

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1 that's well before a change that could happen in
 2 January -- you know, December-January.
 3 And so we -- the intention is that we
 4 wanted -- that application, that when someone fills
 5 out a letter of intent, the application that's
 6 online is their application. It's not going to
 7 change later. So it would -- yeah -- it would make
 8 it to where the timeline is longer in the future.
 9 DR. BRIGETTE RUSSELL: Director Chavez, is
 10 your audio working?
 11 DIRECTOR CORINA CHAVEZ: Can you guys hear
 12 me?
 13 DR. BRIGETTE RUSSELL: Yes.
 14 THE CHAIR: Yes.
 15 DIRECTOR CORINA CHAVEZ: Okay. So since
 16 I've been in this position, I would say there has
 17 been no substantive changes to anything that we have
 18 produced.
 19 However, annually, there have been changes
 20 to the annual report form, the contract template, I
 21 think -- Julia is working on that. We are working
 22 on the performance framework. I actually agree with
 23 Vice Chair Burt that it would be nice for schools to
 24 have more time with that before we implement this.
 25 But other folks on this call want it to be effective

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1 for the schools that are undergoing contract
 2 negotiations.
 3 I am the one that suggested we have a year
 4 that the schools have to take a look at it and
 5 really understand it before we hold them to it.
 6 We also annually update application kits
 7 and the IY checklist based on legislative changes
 8 and minor things that we discover during the
 9 implementation of whatever form or process or kit we
 10 are using.
 11 So I'm not trying to suggest that we are
 12 going to make substantive changes. But I don't want
 13 our hands tied for when we want to make updates to
 14 these documents in accordance with a meaningful
 15 timeline.
 16 So I guess -- I guess I would say that --
 17 and I don't know that everybody on this call is in
 18 agreement with what is and what is not.
 19 So does Patty Matthews feel like we have
 20 made major changes to these forms in the past couple
 21 of years such that we would be violating some sort
 22 of -- this process if we were doing what we're
 23 doing? Because we haven't made big changes on
 24 anything except for the performance framework, which
 25 is a different --

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1 MS. PATRICIA MATTHEWS: Mr. -- Chair Burt?
 2 I mean Chair Brauer, if you want me to respond to
 3 that, I will.
 4 THE CHAIR: Go ahead. And then
 5 Commissioner Carrillo.
 6 COMMISSIONER CARRILLO: Yeah.
 7 Commissioner Carrillo wants to go back ten minutes,
 8 where Commissioner Burt asked Dr. Russell, "Is this
 9 okay?" And Dr. Russell said, "Yes." Because that
 10 would allow us to move on.
 11 COMMISSIONER BURT: But I think the
 12 understanding was incorrect.
 13 So there is an issue. So the way in which
 14 she described the change is that, to the renewal
 15 application, it would be updated in December, it
 16 would be effective in July. But then the -- would
 17 that apply to the schools that were submitting their
 18 renewal application in September?
 19 And at first, I was like, "Yeah." But
 20 it's actually, "No." It really shouldn't. I mean,
 21 I guess CSD could impose that, because it's
 22 effective then, and so they could say, "Okay, the --
 23 the renewal applicants who are submitting in
 24 September have to use this new one that's effective
 25 July 1."

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1 But that seems so inappropriate for the
 2 schools to have any changes to their application in
 3 July for them to apply in September.
 4 So I said no, it actually probably --
 5 like, more -- it would be more effective for the
 6 schools the following year after that.
 7 But there's an entire year delay before
 8 that gets implemented, and that's where she said,
 9 "Okay, that might be where the issue can be."
 10 Maybe it's not a big deal, because the way
 11 in which Director Chavez just said, is it's not
 12 substantive changes. So can we live with that for
 13 that one year until it gets implemented the year
 14 after that? Or not?
 15 So there is -- there is a concern about
 16 the timeline of this and when something is effective
 17 and when it affects the schools, versus a year delay
 18 after that.
 19 MS. PATRICIA MATTHEWS: Chair Brauer,
 20 could you --
 21 THE CHAIR: Go ahead. Ms. Matthews, and
 22 Commissioner Gipson.
 23 MS. PATRICIA MATTHEWS: I think Ms. Chavez
 24 answered the question, which is she acknowledged
 25 that the changes have been non-substantive.

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1 So those are things that we all agreed
 2 that they -- the Division should be able to do.
 3 I wonder if -- Julia -- and I don't know
 4 if this works. So if you put "Effective July 1,
 5 2024, new or revised commission procedures shall be
 6 effective July 1 of the following," that would get
 7 us past -- to me, right now, we're talking about
 8 your gap; right?
 9 Because the new applications, the renewal
 10 applications -- first of all, what changes are
 11 anticipated for the renewal applications and the new
 12 applications, that seems to be -- those could be --
 13 for this fiscal year, those changes -- I agree with
 14 Chair Burt, it doesn't make sense to make a change
 15 for the renewal applications or the new applications
 16 that are effective July 1 that go retroactively to
 17 an application that's already in motion. I agree
 18 with that 100 percent.
 19 But I think they can -- A, the question
 20 could be do you actually anticipate substantive
 21 changes? There were no changes this session in the
 22 law. So if you didn't, then this -- this works just
 23 fine with July 1.
 24 Or you could say that the -- the changes
 25 that we're anticipating would be effective as of --

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1 after July 2024. You can put that in the reg.
 2 So under B, it would start with "effective
 3 July 2024," and then I think you-all, as the rest of
 4 the language of the rule implies, have the
 5 discretion to make changes this fiscal year, if you
 6 thought they were necessary, to the applications and
 7 all the rest of them.
 8 But to me, the annual report form, it
 9 can't change for the schools that are under contract
 10 at this point.
 11 So I don't know if that's of any help.
 12 But I think that might get us to -- get past this
 13 window of time where we don't have a rule in place
 14 and things have been moving, and then if you set a
 15 deadline -- or a start date for all of this to go
 16 into place.
 17 MS. JULIA BARNES: And can I jump in on
 18 what she was just saying? Or do you want me to wait
 19 for the other Commissioners?
 20 THE CHAIR: Yeah. Commissioner Gipson, I
 21 saw your hand. Are you okay with Julia popping in?
 22 COMMISSIONER GIPSON: Yeah.
 23 THE CHAIR: Okay. Great.
 24 MS. JULIA BARNES: So we just did --
 25 COMMISSIONER MANIS: May I make a quick

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1 comment about that? Because mine is pertinent to
 2 what Ms. Matthews was saying.
 3 Aren't we trying to use this to plan into
 4 the future? So the whole point of not including
 5 the -- like, a 2024 or any date like that is so that
 6 we could be able to have this timeline set forth for
 7 future years?
 8 MS. PATRICIA MATTHEWS: You're correct,
 9 Commissioner Manis. That doesn't really solve --
 10 it's too global to put it that way.
 11 COMMISSIONER MANIS: Got you.
 12 MS. JULIA BARNES: So we just did major
 13 revisions of the amendment and notification forms.
 14 We just took down 34 documents and replaced it with
 15 17.
 16 So those are -- those were substantive.
 17 You took out incorrect things that were no longer
 18 required by statute.
 19 The Commission made very different
 20 decisions in terms of philosophy. That's the type
 21 of -- that is not -- they were not minor, and they
 22 were not non-substantive. We completely revamped
 23 those forms.
 24 So those documents are the type that would
 25 be redone pursuant to this process and allow the

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1 schools time to know that that was being done and
 2 to -- to give any comment on that.
 3 So I wanted to clarify -- and then clearly
 4 what's happening with the performance framework and
 5 the contract are all substantive. So I just wanted
 6 to clarify that, that this procedure is intended to
 7 be used and followed on this two working sessions
 8 followed by a vote procedure, so that the schools
 9 can come and take a look at it.
 10 There was a recent example -- I think it
 11 was on the new school application or the renewal
 12 school application -- where dates were changed and
 13 typos were fixed. Those are -- those would be ones
 14 that could be done in a simpler way.
 15 And then -- I need to raise one thing.
 16 And I'm sorry it kind of goes off.
 17 I need Director Chavez or Dr. Russell to
 18 confirm, to reach out to their counsel. I believe
 19 they have misstated something, at least according to
 20 counsel, in terms of what authority they have to
 21 make decisions now or not.
 22 So he has indicated that I should take
 23 care of that.
 24 But I don't represent PED, so I'm not
 25 going to do that. They need to be very clear who

<p style="text-align: right;">66</p> <p>1 can resolve what issues, back to Commissioner 2 Carrillo's comment, because I think we're all here 3 today to finish this document, and issues need to be 4 raised today.</p> <p>5 THE CHAIR: Commissioner Gipson. 6 COMMISSIONER GIPSON: Yeah. So I guess my 7 question is to Julia, because I'm a little confused. 8 Are you suggesting that we not take out 9 that 1 through 4? Or that things have to stay in? 10 MS. JULIA BARNES: No, I'm fine to take 11 out 1 through 4. It's just that Director Chavez 12 just said that we haven't made any substantive 13 changes. And I think that, frankly, you know, we've 14 just finished a yearlong process of extensive review 15 following this two-month. The point is to allow a 16 procedure.</p> <p>17 COMMISSIONER GIPSON: Right. Right. And, 18 you know, I think going forward, we're not going to 19 see big changes. I think that was the purpose of 20 all of these reviews, so that it's -- it's in there. 21 So -- and I like that start date. I -- 22 you know, we're all hoping that the contract is 23 going to be done so that we can use it for the 24 current ones. I don't think there's any concern 25 that schools haven't had an ample opportunity to see</p>	<p style="text-align: right;">68</p> <p>1 July 24th," which was my recommendation, out. 2 So I guess, Commissioner Manis, your point 3 is some of these things are going into effect as 4 soon as this rule is passed; correct? Is that where 5 we're going? 6 COMMISSIONER MANIS: I'm not necessarily 7 saying that. I'm saying that the -- just 8 considering for future years, I know that 9 Dr. Russell and Director Chavez, they had both 10 mentioned the year-and-a-quarter gap; the September 11 things are effective in July. But it wouldn't apply 12 until the next application round. It wouldn't apply 13 to the current year's application. It would apply 14 to the next year's. 15 And so I just don't think that it's -- 16 like, it's clear as to, okay, well, it -- it will 17 become effective for the current fiscal year, but it 18 won't apply to schools until the following fiscal 19 year. 20 That's where my issue was, that it's 21 not -- that really wasn't clear in the language. 22 MS. PATRICIA MATTHEWS: Julia, if we're 23 taking out all of 1 through 4, and we have in here 24 that the Commission makes the decisions about, 25 et cetera, then that -- while you're making those</p>
<p style="text-align: right;">67</p> <p>1 them right now, because we've been working at them 2 in public meetings ad nauseam. So I don't think 3 there's a concern there.</p> <p>4 THE CHAIR: Commissioner Manis. You're on 5 mute still, sir. 6 COMMISSIONER MANIS: There we go. I 7 thought I had it unmuted. 8 My only thought is that it would be good 9 to just include the -- to account for that 10 year-and-a-quarter gap in -- in language. That's 11 what we're talking about on B. To me, I just don't 12 like including a date, because I don't think that 13 clarifies the year-and-a-quarter gap that we've 14 discussed as, okay, well, it's approved effective 15 July 1, but it doesn't apply until the following -- 16 the following year to those schools that are -- that 17 are submitting their applications. 18 So to me, I think just for clarification, 19 that's still not -- it's not clear that that's the 20 case. 21 THE CHAIR: Ms. Matthews. 22 MS. PATRICIA MATTHEWS: Yeah, Chair Burt, 23 I think I would agree with -- "Chair" -- or 24 "Chair" -- or Commissioner Manis about tak- -- I 25 thought we were going to take out "effective</p>	<p style="text-align: right;">69</p> <p>1 decisions, doesn't that accomplish addressing the 2 effective date, if it's harmful -- or not fair to 3 the school? 4 MS. JULIA BARNES: I'm not sure this is 5 responding to that. 6 The -- this rule would be effective 7 July 1. The Commission has, I think with one 8 exception, adopted rule -- adopted procedures now 9 from that whole list. 10 So those are going to be subject to this 11 rule. They're going -- the ones that have been 12 approved are going to be post- -- are posted, will 13 be effective until they're amended, and this rule 14 will follow that. 15 So I think we have -- 16 MS. PATRICIA MATTHEWS: Doesn't A say it 17 won't be effective retroactively? 18 MS. JULIA BARNES: Right. So there are 19 approved forms for that whole list now. They are 20 effective and will continue to be effective until 21 they're changed. 22 The thing I think that Commissioner Manis 23 was raising was this point just on the renewal 24 application. I think that's the only one. I think 25 the rest of them are -- it's clear when it would be</p>

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1 effective. I'm not sure I was answering your
 2 question. Probably not.
 3 THE CHAIR: Vice Chair Burt.
 4 COMMISSIONER BURT: I actually think
 5 it's -- it may be -- the renewal, for sure. And I
 6 don't know what the language is for this. But I
 7 think Commissioner Manis is exactly on point with,
 8 you know, it is effective July 1st.
 9 So, technically, if there's an application
 10 due September, they should be using the one that was
 11 effective July 1st.
 12 But that's not the intention behind it.
 13 We don't want to do that. So I totally get what
 14 he's saying.
 15 But I also think it applies to the renewal
 16 application as well, because I think if we put
 17 something in -- or, sorry, new application -- that
 18 it also -- we have to be careful -- like, it's the
 19 July 1. I guess that one would fall in the same. I
 20 think that would be okay, because they have to use
 21 whichever one was there July 1 before -- during the
 22 time that they're applying.
 23 So maybe it is just the renewal. I'm
 24 trying to think of any other timelines where that's
 25 impacted. Like, we make a change to July 1, but

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1 they're already in the middle of doing something
 2 with a current document. So it shouldn't apply for
 3 the folks who are already doing something.
 4 Is there anything -- is there anything
 5 else, Corina -- or Director Chavez or Dr. Russell?
 6 Are there any other processes that happen across the
 7 school years that we would need to, like, create --
 8 because I think -- I think that's the one for sure
 9 that's going to be impacted is renewal.
 10 DR. BRIGETTE RUSSELL: I do not believe
 11 so, Vice Chair Burt. I -- new applications are all
 12 within a current fiscal year. I mean, the PEC votes
 13 the following fiscal year, but they submit their
 14 application within the same fiscal year.
 15 Implementation year starts and ends within the same
 16 fiscal year. I think it's only renewal.
 17 COMMISSIONER BURT: I think that's right.
 18 So I do think -- and I -- I hear about not
 19 putting -- I actually like the idea of putting that
 20 this starts in July 2024, because I also think,
 21 because of this shift that we are creating, we are
 22 going to have a year of lag in order to do these
 23 effectively as well.
 24 So I think, like, it would be nice to use
 25 this next fiscal year to, like, create these

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1 processes and get them in place. And then starting
 2 July 2024, it makes sense, because we are going to
 3 have -- yeah. Just based off of how we've done
 4 business previously and then this change that
 5 we're -- I think is going to positively impact
 6 schools for sure.
 7 I think this is a huge great impact for
 8 schools. But I also think this is going to be --
 9 one, there's going to be a time period where this is
 10 going to be difficult for CSD and the Commission,
 11 because we're doing it differently.
 12 So I -- I thought -- I was thinking
 13 leaving it effective 2024 might be helpful for us to
 14 be, like, okay, over this next fiscal year, let's
 15 get everything into place. And then starting
 16 July 2024, now we're going to be able to move
 17 forward in a consistent manner, but giving us some
 18 flexibility over the next course of the year to
 19 figure out the pain points and it not negatively
 20 impact us or CSD while we're trying to figure out
 21 the new -- like, this -- I mean, it's a big change
 22 to the timeline, but it's also kind of a small one
 23 in a way as well, because it's actually, like, we
 24 don't have to do things right away, and we can do it
 25 a little -- like, we can -- it's delayed a little

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1 bit.
 2 But I do think it's a little bit of a
 3 shift in the -- in how we do business. So I was
 4 thinking that's -- could be helpful to have the
 5 "effective 2024" part, just to give some breathing
 6 space for CSD and the Commission to figure out what
 7 exactly this looks like.
 8 Because the internal processes -- I'm just
 9 concerned about how much the internal processes
 10 could be affected by this change if CSD has never
 11 had to do it this way before.
 12 THE CHAIR: Commissioner Carrillo.
 13 COMMISSIONER CARRILLO: Doesn't it stand
 14 to reason that July 1st, 2024, is the same thing as
 15 the following fiscal year from right now? So it
 16 doesn't necessarily need to be there.
 17 So I would -- I'd wrap it up. I'd keep it
 18 as it is right now with the language, and I'd wrap
 19 it up and move on to what's next.
 20 THE CHAIR: Commissioner Manis.
 21 COMMISSIONER MANIS: The only additional
 22 comment I have regarding this -- I agree with
 23 Commissioner Carrillo, with the "except renewal
 24 application." To me that could be interpreted as it
 25 becomes effective immediately. It's unclear as to

<p style="text-align: right;">74</p> <p>1 when those procedures become effective. And so I 2 think that that needs to be clarified.</p> <p>3 COMMISSIONER BURT: Yeah. I'm leaving it 4 highlighted, because I'm not going to do the legal 5 language to do that.</p> <p>6 But if there's, like -- we can say that we 7 agree on the intention. And if CSD is okay with 8 that as well, then I'd be open to having someone, 9 not me, figure out what that looks like, how it's 10 read.</p> <p>11 That's why I left it highlighted, because 12 we need to somehow make it to where -- like, yeah. 13 Put in the language that schools that are in that 14 year are not impacted by any changes that happen 15 July 1.</p> <p>16 MS. JULIA BARNES: I think you could move 17 that phrase, "except renewal applications." You 18 could say, "Except for the renewal application," 19 comma, "new or revised Commission procedures shall 20 be effective as of July 1." And then you can add a 21 second sentence.</p> <p>22 COMMISSIONER BURT: But it is still true, 23 Julia. It is true that they are effective July 1 of 24 the next year. That is still correct. But they do 25 not apply to the schools that are current -- that</p>	<p style="text-align: right;">76</p> <p>1 Brauer. I was just going to say I agree, let's not 2 hash out the legal language here. We all know what 3 the intention is, and we'll get it right and make 4 sure that it's really clear and concise.</p> <p>5 But Commissioners are talking as if we're 6 on the same page with deleting 1 through 4 and 7 leaving B. I just want to verify with Director 8 Chavez, if she has audio, is this -- is that what -- 9 are you in agreement with that? Or is this a 10 sticking point?</p> <p>11 DIRECTOR CORINA CHAVEZ: So when I asked 12 Patty Matthews to respond to the question, I didn't 13 hear her answer. In the past two years, we have 14 worked on the performance framework, and we are 15 revising forms and amendments which I believe didn't 16 follow this pattern.</p> <p>17 So as long as the Division can create 18 annual updates, put a time stamp so that both the 19 schools and everybody is aware which application is 20 applicable when, that's what's important to me, that 21 it not have to go through a PEC process for the 22 updates that we have been doing.</p> <p>23 And, obviously, any large changes such as 24 the one we're proposing in collaboration with PEC on 25 the performance framework, that that can follow this</p>
<p style="text-align: right;">75</p> <p>1 are in that -- that current fiscal year. But it is 2 effective that year for the schools that are 3 applying.</p> <p>4 So if we make a change right now, it does 5 not impact the 2023 renewing applica- -- the 6 renewing schools this year; it impacts 2024 renewing 7 schools. But it's still effective July 1 of 2023. 8 But we want to (incomprehensible due to audio 9 distortion) the schools the following year.</p> <p>10 MS. PATRICIA MATTHEWS: Couldn't you just 11 insert "except renewal applications for fiscal year 12 2024"?</p> <p>13 COMMISSIONER BURT: No, because it's still 14 the same thing for every fiscal year after that. If 15 we make a change in 2024, it will be effective 16 July 1, 2024, but it won't apply until the schools 17 do their renewal application for 2025.</p> <p>18 MS. PATRICIA MATTHEWS: I think, Julia, 19 between you and I, we can carve out language that 20 reflects that.</p> <p>21 MS. JULIA BARNES: Okay.</p> <p>22 COMMISSIONER BURT: I'm just going to 23 leave it highlighted there still.</p> <p>24 THE CHAIR: Dr. Russell?</p> <p>25 DR. BRIGETTE RUSSELL: Thank you, Chair</p>	<p style="text-align: right;">77</p> <p>1 timeline. I think that makes sense, to give schools 2 plenty of time to adapt to something new, as 3 Commissioner Beck mentioned.</p> <p>4 That's not what I'm trying to do. I'm 5 just trying to make sure that if we have an annual 6 update, we don't have to wait, because it's 7 considered more than non-substantive.</p> <p>8 THE CHAIR: Commissioner Carrillo.</p> <p>9 COMMISSIONER CARRILLO: Are we comfortable 10 with these changes, and can we let Patty and Julia 11 work out the one phrase on B and then move on? Are 12 we comfortable with that?</p> <p>13 And if -- and if Director Chavez is not, 14 then why? And what do we need to change 15 specifically so we can move on?</p> <p>16 DIRECTOR CORINA CHAVEZ: I believe that I 17 mentioned what would help me understand that we are 18 all on the same page in terms of what is substantive 19 and what is not substantive. And so I asked Patty 20 Matthews if she agrees.</p> <p>21 The only things that have been substantive 22 in the past two years are the performance framework 23 and amendments.</p> <p>24 COMMISSIONER CARRILLO: I would say that 25 "minor, non-substantive" means that it doesn't</p>

78	<p>1 change the meaning of or the intent of or process of 2 whatever changes is going to be there. If you're 3 just tweaking something, you're tweaking something, 4 you know. That's what I would read that to be. 5 DIRECTOR CORINA CHAVEZ: And I think 6 different people can have different interpretations 7 of it. That's why I want to hear from Patty 8 Matthews. 9 MS. PATRICIA MATTHEWS: Chair Brauer, may 10 I speak? I'm not going to make a comment. It's a 11 global legal conclusion that would bind or attempt 12 to bind me and offer all legal counsel for charter 13 schools in the future. 14 It says what it says. And Ms. Barnes and 15 I have negotiated this language in good faith. 16 I think Mr. Carrillo has put it in lay 17 language. That's what it means. And whether or not 18 I say I will, you know, come back and hammer you all 19 about what you didn't do or did do in the 20 application, A, I'm not going to be here, and, B, 21 that's just not what we're doing here, Ms. Chavez. 22 So I would rather not -- you know, there's 23 no point in me making a comment in that regard. And 24 I think I've already articulated that what the 25 Charter Schools Division has done in the past is --</p>	80	<p>1 the procedure review now. It's just A, B, C, and D. 2 I did put -- I tried to put some comments, so it can 3 be looked at later. 4 The highlighted pieces, which we do 5 have -- we have legislative changes in two different 6 places. So I just wanted to highlight that the 7 second time, just to -- once again, like, it seems 8 like a legal thing to look up and make sure that 9 it's not duplicating the same thing over and over. 10 But we really wanted to make sure that we 11 have the leverage to make legislative changes. So 12 that's why, right now, we have it in both places, 13 but I don't know if it's necessary. 14 Okay. So then it also -- the next -- 15 (Commissioner Burt's screen temporarily freezes.) 16 COMMISSIONER BURT: Turning off my camera 17 this time. 18 All right. Try this again. 19 Okay. So the next one is the Out-of-Cycle 20 Procedure Making, Exceptional Circumstances. 21 So this is, once again, to allow for the 22 flexibility that CSD and the PEC need to do things. 23 It doesn't seem like any of these were -- 24 there was only one that was taken out by the PED. 25 And I'm wondering if Director Chavez can talk about</p>
79	<p>1 and she herself had stated -- these are 2 non-substantive changes we've proposed. 3 I think they know what they are. I don't 4 think I need to provide any sort of opinion on 5 behalf of my schools, and I just won't do it. 6 COMMISSIONER CARRILLO: Chair Brauer, I 7 would ask at this point that we accept the language 8 that's there, and we move on. 9 THE CHAIR: Thank you, Commissioner. 10 Commission, I wanted to make sure that 11 we're giving our -- giving Cindy a break. We've 12 been going at it for a bit and probably a lot of 13 stuff that we've been talking about. Let's take a 14 ten-minute break and come back at just a little bit 15 before 11:00. So that would be 10:57. 16 THE REPORTER: Thank you. 17 (Recess taken, 10:47 a.m. to 10:59 a.m.) 18 THE CHAIR: Commissioners and team, as you 19 come on, please throw on your videos so that we know 20 we are back in quorum, please. 21 Okay. Thank you. Thank you. I think we 22 got our quorum back. 23 So Vice Chair Burt, where did we leave 24 off? 25 COMMISSIONER BURT: Okay. So now this is</p>	81	<p>1 why we would not -- why this was removed by the PED. 2 The attorney that -- if an attorney 3 general opinion comes out that affects the 4 Commission or State charter school, that we would 5 not use that as an exceptional circumstance to 6 update a procedure. 7 DIRECTOR CORINA CHAVEZ: No comment. I 8 think that we've talked about this. 9 COMMISSIONER BURT: So the last time I 10 asked it was that we do not -- that we didn't know 11 from PED when I asked at the meeting last month. I 12 don't know why. I don't think there has been a 13 conversation about the -- 14 MS. JULIA BARNES: Chair Burt, I think by 15 deleting -- Vice Chair Burt, by deleting the phrase, 16 I don't think you've tied your hands. If it's 17 silent, you have other exceptional emergency 18 circumstances, as determined by the Commission. 19 So while I understand you might want an 20 answer, I'm not sure we need an answer. You can 21 just move on. 22 COMMISSIONER BURT: So I just want to make 23 sure with the Commission that we're going to accept 24 it and move on. 25 THE CHAIR: Commissioner Gipson.</p>

<p style="text-align: right;">82</p> <p>1 COMMISSIONER GIPSON: Yeah. I -- so, 2 Julia, I'm correct. It doesn't matter if it's in 3 there or not, because if we have an AG's opinion 4 that we either have to do something or cannot do 5 something, we'd have to make the change. It doesn't 6 matter whether it's there or not; correct? 7 MS. JULIA BARNES: You can make the 8 change. You can identify that as an exceptional 9 circumstance and move on. 10 COMMISSIONER GIPSON: Right. Thanks. 11 COMMISSIONER BURT: Okay. So here's the 12 next ones. 13 And I'm not sure who made these updates, 14 so for B and C. 15 MS. JULIA BARNES: So I'll just outline, 16 again, not speaking for any of the other parties. I 17 think that the Division, the PED team, made these 18 changes. And I think that there is a comment by 19 Patty Matthews to the right about that, that the 20 word "commission" is appropriate under the statute. 21 In Section C and following, there was a 22 lot of conversation that I think the parties need to 23 talk about, which is there's been some revisions -- 24 you know, Phase I is when an annual report is in 25 draft. Phase 2 is when it starts to be finalized.</p>	<p style="text-align: right;">84</p> <p>1 comment in the -- in the -- it's a comment. Because 2 as it's written now, it does not contemplate that 3 the Division has to follow the Commissioners' or the 4 Commission's site visit protocol, which, if you go 5 back up to the procedures that you will be 6 developing, that's in there. 7 And so -- and we have had a discussion 8 about that early on about -- and what was being 9 encompassed in the site visit. So that's my -- 10 that's my concern about the changes the Division 11 made -- or the Department made -- to B, because it 12 should be based on the Commission's protocol, not 13 based on, you know, "These are the things we're 14 going to do." 15 And maybe, Julia, if you feel like you're 16 comfortable with how it's worded -- but I want to 17 make -- make it clear that it should be based on the 18 Commission's protocol for site visits. 19 MS. JULIA BARNES: My opinion is we can go 20 back to Commission. I think what the -- one of the 21 changes the Division made was that, "It shall be 22 limited to and will include a review of," give CSD 23 more latitude and doesn't tie their hands, I think. 24 And I think we could say the "site visit procedure," 25 because procedure is defined, so -- and eliminate</p>
<p style="text-align: right;">83</p> <p>1 So Phase 1, they have negotiated some 2 language that I think people agree upon about how 3 the draft document gets created. 4 Of a different nature on Phase 2 is when 5 the 30-day period to finalize the annual report 6 takes place. 7 And there's been quite a bit of 8 conversation about that that 30 days to get 9 information back from the school to consider it to 10 finish that annual report process and get it to you 11 a week before may be short. 12 So... 13 COMMISSIONER BURT: Can I stop you really 14 quick, Julia? Because it sounds like now that it's 15 maybe two different things. It's not in the same -- 16 so maybe we can just do one first. 17 So this -- this is what's highlighted 18 right now is the changes by the Department. And so 19 I think we should look at this first and then go 20 into the timeline part of it, if that's okay. 21 MS. PATRICIA MATTHEWS: Julia, I'd like to 22 make comment about -- in response to Commissioner 23 Burt's question on A -- on B, if that's okay. 24 THE CHAIR: Yeah. Go ahead, Ms. Matthews. 25 MS. PATRICIA MATTHEWS: And I put my</p>	<p style="text-align: right;">85</p> <p>1 who's the owner. 2 DIRECTOR CORINA CHAVEZ: The last time I 3 edited it, I removed (inaudible due to audio 4 distortion). So that wasn't how it was captured. 5 COMMISSIONER BURT: Can you say that 6 again? I couldn't hear. 7 THE CHAIR: Corina, could you share? 8 DIRECTOR CORINA CHAVEZ: When I last 9 edited this document, I crossed out both commission 10 and division, so it just said the site visit. The 11 reason I didn't want to keep commission there is 12 because although I understand the language in the 13 statute that Ms. Matthews is talking about, I think 14 it could be confusing for people to think that the 15 Commissioners are actually doing the site visit. 16 THE CHAIR: Commissioner Carrillo. Then 17 Commissioner Gipson. Then Dr. Russell. 18 COMMISSIONER CARRILLO: I think the -- 19 excuse me -- a change that was just made, I didn't 20 like. I like, "The division site visit shall be in 21 accordance with commission procedures." 22 And then have the following, something to 23 incorporate what Ms. Matthews said, but, you know, 24 "shall be in compliance with," or whatever, "PEC 25 guidelines."</p>

<p style="text-align: right;">86</p> <p>1 COMMISSIONER GIPSON: Yeah, I agree that I 2 think it should be worded that the Commission site 3 visit protocol will be carried out or conducted 4 through the -- by the Division through the site 5 visit. And then we can incorporate that part. 6 DR. BRIGETTE RUSSELL: Chair Brauer and 7 Commissioners, the PEC has not, in the past, 8 approved a site visit protocol that was published on 9 the website as a document. 10 To date, that has been an internal CSD 11 Division protocol that is shared with schools. 12 So... 13 COMMISSIONER GIPSON: Hold on. I'm going 14 to totally disagree with you, because I've been at 15 Commission meetings where we have voted on the site 16 visit protocol. So maybe it hasn't happened 17 recently. I don't know why. But I can attest to 18 the fact that we have. 19 DR. BRIGETTE RUSSELL: Chair Brauer and 20 Commissioner Gipson, is -- are you referring to a 21 protocol outlined in the adopted performance 22 framework or a separate document? Because -- and as 23 you know, I've only been in this job less than two 24 years, so I have -- 25 COMMISSIONER GIPSON: Separate document.</p>	<p style="text-align: right;">88</p> <p>1 add a comment. Okay. 2 All right. So now we get into the timing 3 of things that -- let me -- I'm going to lower my 4 hand first. 5 So now we get more into the timing of 6 things. And it looks like -- so the first one we 7 have is -- number one looks like a -- a comment. I 8 can't get it to go all the way. 9 So I'm interested for -- for CSD to take a 10 look at this comment that may have been added. And 11 then we have the -- those timelines of maybe 12 extending it past 30 days. 13 So I don't know if we want to start with 14 just this first one, Chair Brauer. We'll just do 15 No. (1)? And I think it's most appropriate to have 16 CSD look at this first and see if it's something 17 that -- or maybe Ms. Matthews can ask as to why it's 18 being added, like, the intent of why it's being 19 added, if we can get an agreement on this one. 20 MS. PATRICIA MATTHEWS: Commissioner Burt, 21 let me -- I think -- I wanted to get to the comment. 22 I thought we had come to a consensus on that. 23 MS. JULIA BARNES: I agree with that. I 24 believe that C(1), there is consensus. 25 COMMISSIONER BURT: Okay. Cool. So we</p>
<p style="text-align: right;">87</p> <p>1 DR. BRIGETTE RUSSELL: Okay. 2 THE CHAIR: Ms. Matthews. 3 MS. PATRICIA MATTHEWS: Sorry. This one 4 is for Chair Burt who's doing the drafting here. 5 Up in definition Y, you used -- as the 6 procedures that you describe, you call it the annual 7 site visit protocol. Yeah, you use that term. I 8 just want to -- you might want to be consistent in 9 how you're referring to it. "The commission's 10 annual site visit." Yes. 11 THE CHAIR: Vice Chair Burt. 12 COMMISSIONER BURT: Yeah. So I guess my 13 question is is this going to be -- once again, I 14 just keep going back to you. Is this going to be -- 15 I'm concerned or interested in, Director Chavez and 16 Dr. Russell, if this would be something that would 17 be problematic in the review tomorrow and it going 18 through and getting posted tomorrow. So this is 19 what it would look like now is what's highlighted. 20 DR. BRIGETTE RUSSELL: Director Chavez, do 21 you have audio? 22 Okay. If she does not, yes, this is 23 acceptable. 24 COMMISSIONER BURT: All right. So I am 25 going to take that away, and then I'll make sure I</p>	<p style="text-align: right;">89</p> <p>1 can keep going. 2 So now we're down to -- so the 30 days, 3 and maybe changing it to 45. 4 MS. JULIA BARNES: This is Julia. Just to 5 be clear, that's my thought is if 30 days is too 6 short, you go earlier into starting the Phase 2 7 process. There may be other resolutions to this. 8 COMMISSIONER BURT: And is it from -- 9 where is it -- was it CSD raised that it was too 10 soon? Or is it the schools that said -- like, who 11 said that 30 days is not enough time (inaudible due 12 to audio distortion) to accommodate? 13 MS. JULIA BARNES: Well, it was a little 14 bit of a longer story. The CSD wanted to be able to 15 control or unilaterally change any dates in this 16 whole section. We broke it down into a conversation 17 about Phase 1, which was the draft -- you know, the 18 draft document, and came up with the language up 19 above. 20 And then when we started talking about 21 Phase 2, which is my language. It appeared to me 22 that both CSD and the schools felt like once you 23 started a 30-day, and you take a week away to get it 24 to the PEC, you already have, like, 20 days. And so 25 this was a conversation about maybe the dates on</p>

<p style="text-align: right;">90</p> <p>1 Phase 2 for finalizing the annual report were short. 2 Again, there may be other options other 3 than starting the process 45 days before a meeting. 4 COMMISSIONER BURT: I would definitely say 5 I'm most interested in Director Chavez or 6 Dr. Russell, because I think this definitely 7 requires, like, that backward planning and what it 8 looks like internally for the team. 9 DR. BRIGETTE RUSSELL: It does. Thirty 10 days is a tight turnaround. 11 Director Chavez, are you on? 12 Okay. I don't think she is. I would 13 approve 45 days. 14 I see a comment from Ms. Matthews that -- 15 that schools' written response should be -- that 16 they need more time than 10 days. We can revise 17 that. 18 I just want to have enough time for CSD to 19 incorporate any responses to the school response and 20 edit. 21 And I do think that it's not unreasonable 22 for CSD to have a little more than half of that 23 45 days, because schools have one report to review. 24 We have 50-some reports to correct. 25 MS. PATRICIA MATTHEWS: Commissioner Burt</p>	<p style="text-align: right;">92</p> <p>1 so, technically, you don't actually -- 45 days 2 before the Commission meeting is actually 38 days 3 for the total process. 4 So if I split that in half, we actually -- 5 we are giving less time to CSD. If we make the 6 schools have 20, CSD has 18, because everything has 7 to be done the Friday before a Commission meeting. 8 So you have to take off a week, always, 9 when we give dates for CSD turnaround. 10 DR. BRIGETTE RUSSELL: Uh-huh. Right. 11 MS. JULIA BARNES: The other idea that was 12 discussed -- 13 COMMISSIONER BURT: What about 14 (inaudible)? 'Cause that -- would that be business 15 days still, so that would give the schools three 16 weeks? 17 MS. JULIA BARNES: No. 10 days is 18 business days. Eleven days and further is calendar 19 days, actual calendar days. 20 I just want to say one quick thing, which 21 is -- that isn't in here -- is there was a thought 22 to allow CSD, even though they had kind of committed 23 to do School A at the May meeting -- or whatever 24 meeting -- that if they needed more time, they could 25 move that school another meeting. Not all of them,</p>
<p style="text-align: right;">91</p> <p>1 and the rest of the Commission, the discussion 2 yesterday with Ms. Chavez on the phone, she 3 acknowledged that the 10 days was short. I know 4 that my original -- I had in my original draft -- I 5 believe it was 30 days to comment. But maybe 20 and 6 20. So the Phase 2 -- so this is the Phase 1; 7 right? I mean, unfortunately -- 8 COMMISSIONER BURT: I think it's Phase 2. 9 Or it looks like it's 10 days -- let's see. Is 10 there another one that I'm missing? 11 MS. PATRICIA MATTHEWS: At Phase I, it was 12 a turnaround of -- 13 COMMISSIONER BURT: 30 days. 14 MS. JULIA BARNES: Or a turnaround and 15 that the parties could change that; so... 16 MS. PATRICIA MATTHEWS: I don't know where 17 my comments went. 18 DR. BRIGETTE RUSSELL: This is a 19 turnaround between Phase 2 and the final report. 20 COMMISSIONER BURT: Yes. Yeah. 21 DR. BRIGETTE RUSSELL: So Phase 2 to 22 schools, 45 days prior. And if schools need 23 20 days, then CSD has the rest of that time to 24 finalize and -- 25 COMMISSIONER BURT: Well, technically --</p>	<p style="text-align: right;">93</p> <p>1 but that some are easier and some are harder. 2 So in addition to the days, maybe giving 3 CSD flexibility to just notify the Commission, "This 4 school isn't going to be heard now, we're still 5 working with them, it's going to be heard at the 6 next meeting." 7 I'm just raising an idea other people had. 8 And then 15 should be changed to seven, since we 9 don't require (inaudible) 15 days. Just seven days. 10 DR. BRIGETTE RUSSELL: I do think 45 11 works, if the schools can have 15 days, and CSD can 12 have the remainder, minus the seven days to get it 13 to PEC. 14 COMMISSIONER BURT: So I actually do like 15 the idea, too -- like, if -- tell me what you think 16 about this, Dr. Russell. If we did leave it as 20 17 and give them that amount of time -- so the 18 difference between 10 business days and 15 days may 19 only be one extra day; right? So it's actually not 20 a significant difference. 21 But 20 days might be good, which gives you 22 guys, like, about 18 days. 23 But I like the idea that Ms. Barnes just 24 said that if they provide significant written 25 comment that's going to take you longer than the</p>

<p style="text-align: right;">94</p> <p>1 time frame that you have, that you have the ability 2 to push that annual report to the next month, 3 without restarting the whole -- like, restarting the 4 whole timeline, that then you could say, "Okay, the 5 feedback that we received written is significant. 6 We're going to need time to review it. So we're 7 going to -- we're not going to do it at this next 8 meeting. We're going to push this specific school 9 to the meeting next month, but we're not going to 10 reengage this 45-day process again." 11 Maybe sometimes you would be able -- like, 12 maybe it's a small change, and you would be able to 13 do it within the 18 days, and it's not a big deal. 14 But if there are things that are going to 15 take you guys longer to review than that, then it 16 gives you the ability to give yourselves an extra 17 month, really, to take a look at significant 18 changes. 19 Okay. So let me -- I think it would be -- 20 "will consider the state charter schools' response 21 and create a final report," do-do-do. 22 So I think it's in here that it would 23 be -- I'm going to just, like, make a little note in 24 here again, Julia, for legal language. 25 I think it would be right here. And,</p>	<p style="text-align: right;">96</p> <p>1 right there was a clarification. There was a lot of 2 conversation around that. But we came down to how 3 we would identify that optional meeting and 4 identified it as technical assistance and part of 5 the record of performance, so reusing the concepts 6 already in the rule that it's -- it's just helpful. 7 And that's all that it is. 8 COMMISSIONER BURT: And this was agreed to 9 by -- in the meeting yesterday. 10 MS. JULIA BARNES: Yes, before that phase. 11 COMMISSIONER BURT: Okay. So now we're 12 into corrective action plans. I'm going to see what 13 the big one is. Yeah. So intervention ladder. And 14 it looks like here's the first parts. 15 And maybe -- this is where you can help 16 me. If there's just anything that wasn't agreed to 17 yesterday, like, anything that still needs, like, 18 more conversation, or if it was, like, substantive 19 enough that we need to review it? So this is an 20 approved -- 21 MS. JULIA BARNES: I believe it was simply 22 approved. It was in the definition and moved. 23 It -- once we moved it, we deleted some other 24 redundant -- so it's wordsmithing. 25 COMMISSIONER BURT: Okay.</p>
<p style="text-align: right;">95</p> <p>1 like, to maybe, "Move school report acceptance by 2 commission to following month without reengaging 3 45-day process." And then you guys -- I'll 4 highlight that, and you guys come up with what that 5 actually says in legal words. 6 And that way, it's the Division -- they'll 7 consider that. They can move it to the next month 8 if there's significant review necessary. But then, 9 otherwise, they can create that final report. 10 I'm just going to -- I don't know if I 11 need like a head nod or some thumbs-up from 12 Commissioners, or if we need to talk about this any 13 more, or if we can move on. 14 (Commissioners indicate.) 15 COMMISSIONER BURT: Looks like we can move 16 on. All right. 17 Let me -- I'm going to take these out from 18 being highlighted now real quick. One second. 19 Okay. All right. So it doesn't look like 20 any changes right here, just minor language changes. 21 I'm trying to look and see if there's 22 anything substantive. And so far it looks like 23 nothing yet. I don't know if this has any comments 24 or anything. 25 MS. JULIA BARNES: This was a -- that one</p>	<p style="text-align: right;">97</p> <p>1 MS. JULIA BARNES: The thing I think we 2 should look at here, though, is between the school 3 and the Division, who -- who creates what. 4 So the way that it's drafted here is that 5 the school does the Corrective Action Plan, but the 6 Division presents an assessment of the adequacy of 7 the plan. 8 This is more practical. That we've 9 experienced the fact that a school needs a 10 Corrective Action Plan sometimes is not in a place 11 to be able to do one, and who's going to do what. 12 This is what we landed on. 13 But I need to make sure that PED -- that 14 this is the way you wanted it. You know, who's -- 15 COMMISSIONER BURT: And is this the way 16 the -- I'm also interested in, Director Chavez, 17 Dr. Russell, if this is what also makes sense for 18 you guys. I mean, I'll stop moving it. 19 DR. BRIGETTE RUSSELL: Okay. I just need 20 a second to find my place in the document. 21 "The division will create a corrective 22 action monitoring tool to use to monitor..." 23 COMMISSIONER BURT: I took out "use." 24 DR. BRIGETTE RUSSELL: "...and provide 25 written progress reports periodically to the</p>

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1 commission and state charter school."
 2 MS. JULIA BARNES: It's before that. It's
 3 who -- that the school needs to provide the CAP.
 4 You-all provide -- you-all provide input on the
 5 sufficiency of it.
 6 MS. BARNES: Okay. So (a) is what the
 7 school does; (b) is what you do.
 8 DR. BRIGETTE RUSSELL: Yeah, that's fine.
 9 COMMISSIONER BURT: Okay. So that's that
 10 process.
 11 This deletion, is this something we need
 12 to talk about?
 13 MS. JULIA BARNES: I can explain it. You
 14 can decide if you want to talk about it. It was a
 15 PED deletion. So the statement above is that if a
 16 school is successful in fixing a problem, it may be
 17 used to support the renewal or renewal with
 18 conditions.
 19 The second -- the second portion which has
 20 been struck was the limited time in which it
 21 wouldn't be used against a -- or that it could be
 22 used against a school, that if the school kind of
 23 ping-ponged -- so year one, they were given a
 24 notice; year two, they fix it; year three, they were
 25 given the same notice; year four, they were trying

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1 to fix it. They -- you know, that that could at
 2 least be some evidence that they hadn't really fixed
 3 it.
 4 And then (b) was that -- for revocation
 5 and uncorrected, unsatisfactory performance or
 6 contract violations supports a conclusion.
 7 I'm just going to tell you my opinion,
 8 which may not be the opinion of PED lawyers. I
 9 think if a school has fixed something, a court is
 10 not -- or the Secretary is not going to find it very
 11 persuasive to say they messed up in year one and
 12 fixed it in year two; therefore, we should still
 13 slap their hand for it.
 14 So I don't know how we could use it
 15 against a school. They fixed it. We asked them to
 16 fix it, and they fixed it.
 17 It's also consistent with the kind of
 18 national policy of the intervention ladder. You
 19 know, you're trying to get schools to make the
 20 change you want. Again, I guess my answer is,
 21 practically speaking, I don't see how we're going to
 22 use it.
 23 Eliminating that, I don't think makes much
 24 difference. And so I guess I wasn't going to fight
 25 that battle, because I don't see how I, as a lawyer

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1 for PEC, would use it.
 2 Like, say, I'm going to argue that
 3 something you fixed was wrong and therefore was a
 4 bad thing. I think it's going to be a good thing.
 5 So I don't -- so I don't care is kind of my bottom
 6 line.
 7 MS. PATRICIA MATTHEWS: If it helps
 8 anything at all, Commissioners, I was fine with the
 9 deletion.
 10 THE CHAIR: Thank you, Ms. Matthews.
 11 Commissioner Burt?
 12 COMMISSIONER BURT: I'm sorry. It
 13 wouldn't unmute for me. Yeah. So, yes. I'm just
 14 interested if it, like -- if we have thumbs-up from
 15 Commissioners, or if we need to talk with CSD, or
 16 time to move on.
 17 (Commissioners indicate.)
 18 COMMISSIONER BURT: Cool. All right. So
 19 we'll put -- all right.
 20 All right. We're on New School
 21 Application Review.
 22 Let's see if there's anything -- I don't
 23 know -- I don't think there's anything substantive
 24 in here.
 25 MS. JULIA BARNES: I didn't think so.

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1 THE CHAIR: Commissioner Gipson.
 2 COMMISSIONER GIPSON: Yeah. And I had
 3 sent this question to Julia when we got this -- I
 4 don't know -- whatever version this was. I don't
 5 know if it would -- if it's appropriate.
 6 Do we need to put in the process of the
 7 independent reviewers in here? Because there's no
 8 mention in this rule of the independent reviewers.
 9 It just says, "The division will analyze."
 10 But prior to the Division analyzing,
 11 there's that whole process of the independent
 12 reviewers. And that's not contemplated here.
 13 MS. JULIA BARNES: I'm sorry. I should
 14 have responded to that.
 15 The way the -- my understanding -- and I
 16 may need clarification from CSD -- is that the
 17 independent reviewers review. But at this point,
 18 it's the Division that accepts or rejects the
 19 independent review.
 20 So it's -- it's -- if we did that, I would
 21 do something like, "...and may use an initial
 22 independent..." -- you know, "set of reviewers" or
 23 something.
 24 COMMISSIONER GIPSON: See, my only concern
 25 is I don't want to lose that concern, that if it's

<p style="text-align: right;">102</p> <p>1 not in the rule to use the independent reviewers, 2 that it may be skipped. 3 And I think it's -- I think it's an 4 important eyes on the application. But that could 5 just be me. 6 MS. JULIA BARNES: I would be fine to add 7 something. 8 COMMISSIONER GIPSON: Because that's where 9 the capac- -- you know, that's where the capacity 10 review comes in. 11 So, you know, I hate losing that. If it's 12 not here, can it just be skipped? 13 THE CHAIR: Dr. Russell. 14 DR. BRIGETTE RUSSELL: Chair Brauer and 15 Commissioner Gipson, it is in the -- the new 16 application that's approved by the PEC. So CSD 17 can't skip it unless the PEC approves a new 18 application that doesn't contain it. 19 COMMISSIONER GIPSON: I get that. My 20 concern is that if it's not in rule, it could come 21 out of the application at some point in time. And I 22 think it's an important step that shouldn't just be 23 able to be removed. 24 DR. BRIGETTE RUSSELL: The CSD has no 25 objection to adding it.</p>	<p style="text-align: right;">104</p> <p>1 CSD,'cause I think they are the ones who make 2 recommendations. 3 I'm okay with something like that. 4 COMMISSIONER BURT: This is going to be 5 another -- I'm just going to highlight it yellow, 6 the bright yellow, for you to take a look at the 7 legal language, make sure that's right. 8 MS. PATRICIA MATTHEWS: Can I ask a 9 question of Dr. Russell? 10 Is that how you actually do it in the 11 past, that you take it or leave it from the 12 independent reviewers? I mean -- and that's also, I 13 guess, for Commissioner Gipson. I guess I would 14 like to know in practice, do you -- have you 15 disregarded the independent review analysis? 16 DR. BRIGETTE RUSSELL: Chair Brauer and 17 Ms. Matthews, not in practice. 18 MS. PATRICIA MATTHEWS: And, Commissioner 19 Gipson, isn't that from NACSA, where you have the 20 recommendation of an independent review team? 21 COMMISSIONER GIPSON: We do, you know. 22 And I appreciate the fact that in -- since the new 23 team is in place, it hasn't. But in experience, I 24 think we all know that there are times when the 25 independent reviewers weren't considered at all.</p>
<p style="text-align: right;">103</p> <p>1 THE CHAIR: Ms. Matthews. 2 MS. PATRICIA MATTHEWS: I think that we're 3 getting there, because I think the idea -- what 4 Commissioner Gipson's point is -- and it's 5 important -- is that the independent analysis is 6 part of the criteria for reviewing a charter 7 application, and it needs to be articulated that 8 way. 9 And I'm not certain, Julia, that it should 10 be something the Division could disregard. 11 If you're using that as part of your 12 criteria for assessing the new applications, then it 13 should be "including an independent review analysis, 14 as defined by the Commission," or something. But... 15 MS. JULIA BARNES: I would be fine with 16 doing it after that, "The division will analyze each 17 state charter school application and consider the 18 analysis of an independent review team" or 19 something. 20 The conversation, though, which I -- I 21 think we've got the right balance -- is if an 22 independent review team says, "This application is 23 really terrible," but CSD, like, sees more redeeming 24 features, or the reverse, that it wasn't -- that 25 it's considered, but it didn't bind the hands of the</p>	<p style="text-align: right;">105</p> <p>1 So -- but I don't know -- that -- I don't think we 2 can fix that through this rule. But I -- I do want 3 to make sure that it's included. 4 MS. PATRICIA MATTHEWS: Well, if it's a 5 national best practice, which is I think that's 6 where we're coming from, what is that practice? Is 7 it just purely as an outside recommendation that the 8 Division can take it or leave it? Or I guess I'm 9 trying to get to what is the practice. 10 COMMISSIONER GIPSON: No, I don't think -- 11 you know, if you give me a couple of seconds, I'll 12 see if I can find it. 13 MS. PATRICIA MATTHEWS: Okay. 14 COMMISSIONER BURT: All right. So do you 15 want me to keep moving on? Or do you want me to 16 wait one second? 17 MS. PATRICIA MATTHEWS: Maybe what we do, 18 Commissioner Burt, is -- if you scroll back up 19 there -- the concept of an analysis of an 20 independent reviewer is part of the Commission's 21 established criteria. 22 So according to the criteria established 23 by the Commission, which shall include an 24 independent analysis -- or independent review team 25 analysis, something -- Julia and I can (inaudible</p>

<p style="text-align: right;">106</p> <p>1 due to simultaneous speaking). But the concept of 2 that's part of your criteria, which is an 3 independent analysis. 4 And then -- you know, then the Division 5 will need to consider in their recommendation. And 6 if you get the analysis and agree with the 7 independent reviewers over the Charter School 8 Division, or it's in conflict, I think that's where 9 it would go. It's in your criteria. 10 Okay. If that's -- I mean, I -- Julia and 11 I can tweak that if that's what the Commission is 12 comfortable with. 13 COMMISSIONER BURT: Yes, I do have -- I 14 put a note to look at that. 15 MS. JULIA BARNES: And it also might go in 16 the definition, when they talk about the -- I don't 17 know. We'll need to see. Yes, we'll put it 18 somewhere. 19 COMMISSIONER BURT: Okay. So I think 20 we're at Renewal Application Review now. 21 MS. JULIA BARNES: So I think, through D, 22 there's not any problem. And I think this is where 23 we are potentially getting to the other document. 24 We're not quite sure how to do it. 25 So there is a non-renewal hearing</p>	<p style="text-align: right;">108</p> <p>1 The other is -- the second one is -- in 2 some part of the record of procedure -- of 3 performance -- PEC could have said -- issued in a 4 notice or something -- we don't think -- "The 5 Commission thinks that you are not on track for 6 renewal." 7 So one is the Division can say it in a 8 recommendation. The second one is somewhere, which 9 is not likely, but could happen -- the Commission 10 could say, "Look, we don't think you are on track 11 for renewal." 12 And then the third one could be the school 13 has concerns. They don't quite know how the 14 Commission is going to rule. They -- they -- you 15 know, maybe that the -- maybe the Division says 16 renewal with conditions, but the record of 17 performance has got a lot of things that the school 18 is concerned about, and they just want this more 19 formal hearing, because they don't know if the 20 Commission is going to go with the Division's 21 ruling. 22 So the Division isn't going to be required 23 to present a case for non-renewal. They're just 24 going to present its case -- it's just going to 25 present its case regarding the school. And it can</p>
<p style="text-align: right;">107</p> <p>1 starting -- I just lost it somewhere -- there. And 2 then a -- not a revocation proceeding. 3 COMMISSIONER BURT: I'm on the wrong 4 document? Or -- 5 MS. JULIA BARNES: You're not on the wrong 6 document. We may switch to the other document. So 7 let me just tell you kind of what I tried to do. 8 So -- so there were -- there was a -- 9 there was a lot of conversation. I will say that if 10 there was consensus, I don't know what it is. 11 So -- and then Patty Matthews has put -- 12 and I think I've left in all of her comments there 13 in reaction to the proposed changes. 14 So here's what I tried to do. 15 Is this the new -- yeah. So here is what 16 I tried to do. And I'm -- am not sure that I've 17 done it. 18 But I went back to your original draft, 19 the original document that you approved on the 24th, 20 I think. And I made changes that I thought were 21 consensus, and then I tried to simplify things. 22 So the changes that I believe are 23 consensus are the variety of ways that there can be 24 a potential non-renewal. 25 One is CSD could recommend non-renewal.</p>	<p style="text-align: right;">109</p> <p>1 give its own recommendation. The Commission can 2 take it or leave it in this more formalized process. 3 If the Commission is the one who has 4 indicated, "Look, we don't think you're on track for 5 renewal," then Commission counsel will be the one 6 that presents it. 7 So the Division -- it's an attempt to not 8 have -- to just have the Division present what the 9 Division thinks in a more formalized setting. 10 So I think that there is consensus about 11 that. 12 The other thing -- and this is what I have 13 put in. And I will tell you that I did it this 14 morning, because I couldn't fix it from -- I 15 couldn't give you a clean document, otherwise. I -- 16 the issue is kind of how is the case going to be 17 run. 18 And there was a lot -- in my view, a lot 19 of detail that might be good and might not be good. 20 And, you know, each case for non-renewal or each 21 case for revocation is very specific, and that what 22 has happened in the past is the Attorney General, 23 whether the Attorney General was representing you, 24 at least in one of the revocations, there was kind 25 of a prehearing order: "Here's what we're going to</p>

110	<p>1 do."</p> <p>2 So the parties said, "Here's what we want</p> <p>3 to do, and maybe we have new evidence or maybe we</p> <p>4 have this, or maybe we have that."</p> <p>5 And then the -- before the hearing, the --</p> <p>6 and since the Chair runs the meeting, it would be</p> <p>7 the Chair who would say, "Here is what has been</p> <p>8 decided about that."</p> <p>9 So rather -- I don't know. There wasn't</p> <p>10 consensus about what to put in or what not to put</p> <p>11 in.</p> <p>12 And so I just tried to say -- I tried to</p> <p>13 keep the notion of notice and opportunity to be</p> <p>14 heard. I tried to keep in kind of this easier way</p> <p>15 that everything related to renewal is already in.</p> <p>16 And so I just tried to simplify it and allow some of</p> <p>17 the specifics to be decided later.</p> <p>18 So the first point is I think there is</p> <p>19 consensus on what the Division should do, which is</p> <p>20 just to present whatever it was going to do at a</p> <p>21 more formal hearing, and sometimes the Commission</p> <p>22 will take action.</p> <p>23 The second point is I have proposed --</p> <p>24 just me -- proposed a simplified process that allows</p> <p>25 each one to kind of be done, as the case will be.</p>	112	<p>1 So I didn't know how to go back to the</p> <p>2 other document, look over the redline. I don't -- I</p> <p>3 don't even know how much to get to it.</p> <p>4 So that's what I tried to do. Went back</p> <p>5 to your original document and tried to fix some of</p> <p>6 the things that were discussed.</p> <p>7 THE CHAIR: Vice Chair Burt.</p> <p>8 COMMISSIONER BURT: This is probably going</p> <p>9 to be so annoying to you, Julia. But I genuinely --</p> <p>10 from -- I swear I just listened to everything, paid</p> <p>11 attention. I have no clue still what the</p> <p>12 disagreements are.</p> <p>13 Like, if I'm looking at this, like, is</p> <p>14 this -- what should or should not be -- like, what</p> <p>15 is -- what do we need to consider? I'm very</p> <p>16 confused still about what is problematic in here and</p> <p>17 who is it problematic for.</p> <p>18 Like, am I looking at the PED's</p> <p>19 recommendation right here? Or am I looking at the</p> <p>20 possible solution, but maybe PED doesn't agree with</p> <p>21 this?</p> <p>22 MS. JULIA BARNES: It's a possible</p> <p>23 solution. PED may not agree with it. Patty</p> <p>24 Matthews and other lawyers may not agree with it.</p> <p>25 So if you -- anything that is the Division</p>
111	<p>1 And then there's a third point that I may</p> <p>2 discuss in more detail later, which is -- and it's</p> <p>3 outside of this rule -- is -- it's unclear to me if</p> <p>4 PED is committing its staff to come testify.</p> <p>5 And you all need to know that, and you</p> <p>6 need to know that when the record is being created</p> <p>7 as to whether you can rely on a witness or not, and</p> <p>8 I think you're going to need to address that.</p> <p>9 So I think that that's probably outside</p> <p>10 the rule. But it was kind of under -- it was kind</p> <p>11 of an underlying conversation here.</p> <p>12 So I think I'm going to pause and let</p> <p>13 Patty Matthews, like, start anywhere she wants,</p> <p>14 maybe even just discussing -- discussing it however</p> <p>15 she wants to discuss it.</p> <p>16 I think we need some kind of starting</p> <p>17 point for the rule to be posted.</p> <p>18 They don't -- we've now had nine meetings</p> <p>19 the PEC -- PEC and PED people were at. That's a</p> <p>20 lot. I don't know that ten or eleven or twelve</p> <p>21 meetings and to delay the rule is going to get us</p> <p>22 any further.</p> <p>23 And I also think there's an ability to</p> <p>24 look at this a little bit further during the 30-day</p> <p>25 period.</p>	113	<p>1 or Commission counsel, that is this who's going to</p> <p>2 present the case. I think that is in agreement.</p> <p>3 I think H(1) presently is a new simplified</p> <p>4 process that I am suggesting. So H(1), you can</p> <p>5 highlight in yellow, and it's something to discuss.</p> <p>6 That's yellow. (2) and (3) I think are in</p> <p>7 alignment -- are in agreement.</p> <p>8 Go down.</p> <p>9 COMMISSIONER BURT: This part.</p> <p>10 MS. JULIA BARNES: That is in yellow,</p> <p>11 because I changed it up above and made it a simpler</p> <p>12 process.</p> <p>13 That next long deletion is in yellow.</p> <p>14 So what I think happened -- these are my</p> <p>15 words -- is we had one -- and the same is going to</p> <p>16 be the same down below. So the -- we have one</p> <p>17 process.</p> <p>18 PED presented kind of a really -- a lot of</p> <p>19 different ideas and different processes, and we</p> <p>20 couldn't get through that.</p> <p>21 So that was, like, I'm going to go back to</p> <p>22 what you first approved. I'm going to try to make</p> <p>23 it simpler. I'm going to -- and that's what I did</p> <p>24 in yellow.</p> <p>25 MS. PATRICIA MATTHEWS: Madam Chair --</p>

<p style="text-align: right;">114</p> <p>1 sorry, Mr. Brauer -- or Commissioner Brauer. 2 THE CHAIR: That's okay. 3 MS. PATRICIA MATTHEWS: Commissioner 4 Brauer and the rest of the Commission, the 5 document -- the other document Julia sent to you 6 that I marked up yesterday, I mean, you can see 7 through all the redlines, which I think are chiefly 8 the Department's. 9 But fundamentally I think the Department 10 is looking at the process as a typical 11 administrative hearing and confusing who the parties 12 are, who -- and all of the pushback that we're 13 getting -- I'm trying to simplify and get to the 14 crux of the issue. 15 And I will just initially say, Julia's 16 description -- or new revisions to this, I'm not 17 fundamentally -- objection -- I don't oppose it. 18 But I have a couple of questions, and I don't 19 think -- some of it is not practical. 20 But the problem is that we don't know and 21 cannot rely, when we always have had in the past, 22 the Division presenting the case for non-renewal or 23 renewal. So that's fundamentally the problem. 24 And so that I think what Julia is trying 25 to accomplish -- and I don't -- I don't have a</p>	<p style="text-align: right;">116</p> <p>1 interact with the time frame that you're going to be 2 in at that point? Because I don't know how 3 practical that is. And, I mean, I feel badly for 4 the schools having then to be subjected to a third 5 party coming in to review things that they had 6 already been reviewed for by the Division. 7 MS. JULIA BARNES: Yeah, I think -- I 8 think, practically speaking, PEC is going to need to 9 confirm, when an issue of concern becomes a serious 10 issue of concern, that we're going to need to 11 confirm at that time if whoever the PED sends out 12 needs to be available for -- as a witness in the 13 event of a renewal or revocation hearing on this 14 issue. 15 And if we don't get that confirmation at 16 that time, I think PEC, at that time, way back when 17 the issue first starts, is going to have to decide 18 what to do and who they're going to send it out, 19 because what I think can't happen is the department, 20 whether it's CSD or another department, goes out and 21 then later says, "Oh, sorry, too bad, we're not 22 going to testify for you," or, "We're not going to 23 testify here." 24 And if -- if the Commission's relied on 25 that, I don't know how we would prove our case. We</p>
<p style="text-align: right;">115</p> <p>1 problem with how she's done this, because I think 2 this -- as long as the school gets the opportunity 3 to present its position, has a fair opportunity to 4 cross-examine or examine witnesses, which was part 5 of the problem that the Department was trying to 6 pull out of this rule -- that's how I sort of 7 summarize what they did with it. 8 I'm okay with, you know, either the 9 Commission putting on the case or the Division 10 putting on the case. But it's the Division who is 11 doing the legwork, and they ought to be accessible 12 to both the Commission and the school at the 13 hearing. 14 And so just sort of in summary, I'm not 15 opposed to what Julia is proposing. It seems to 16 simplify things. And -- but I guess my concern is 17 the Department hasn't seen this yet. So -- or 18 certainly hasn't weighed in yet. 19 One of the things, Julia, that I 20 thought -- that I'm not sure how practical it would 21 have been is the concept of an independent 22 investigator; if the Division wasn't going to 23 cooperate and put on a case, that the Commission 24 would go forward and pull out its own investigation. 25 That's fine. But how is it going to</p>	<p style="text-align: right;">117</p> <p>1 don't go out and do anything independently. 2 So I think that issue is going to be 3 addressed when it happens, when you're sending 4 somebody out who's going to go look at special ed or 5 whatever. I mean, it's -- and I'm not positive 6 they're saying they won't, but they're certainly not 7 saying they will; so... 8 THE CHAIR: I have a thought that I'll 9 give Director Chavez a -- the floor. 10 DIRECTOR CORINA CHAVEZ: So this -- can 11 you guys hear me okay? 12 THE CHAIR: Yes. 13 DIRECTOR CORINA CHAVEZ: This is not on 14 topic. It's not about this particular part of the 15 rule. It's sort of stepping back a little bit and 16 recognizing that this rule is not ready. 17 New ideas have been introduced today. And 18 the deadline for posting is tomorrow. 19 I just am not seeing that happen. When we 20 originally came up with the schedule to have it 21 posted tomorrow, a draft was to be ready last week. 22 So I'm thinking that this rule is not going to be 23 posted tomorrow. 24 THE CHAIR: I -- I think that, Corina, 25 when we had these -- I don't know how many</p>

<p style="text-align: right;">118</p> <p>1 conversations we've had so far. But I think it's 2 bound to have -- we're bound to have additional 3 thoughts to come up. As we have, you know, 4 19 participants on a call, there's always going to 5 be new things that come up. 6 I don't think that necessarily qualifies 7 this as something that it's not ready, in my 8 opinion. I think the more we talk about things, the 9 more we can tinker with the edges. I'm not seeing 10 very substantial things that are changing throughout 11 this process. 12 Going back more on to this point that we 13 were just on -- and I don't know if this is going to 14 carry any weight at all with the Commissioners or 15 with others -- but if there -- if the PED is 16 insinuating that they may not want to have their 17 staff participate in any type of formal hearing, 18 Julia, is this something -- and, Commissioner 19 Gipson, I know we did this a couple of times when I 20 was the Charter School director, we had a couple of 21 special cases, especially when there were moments 22 when I had to recuse myself because of my previous 23 job to review -- to have an external reviewer kind 24 of be on contract with us. 25 And so I -- this -- I don't want to -- I</p>	<p style="text-align: right;">120</p> <p>1 thought. And I think if -- I don't think it would 2 hurt to put it in there as a -- in case. 3 But I share Ms. Matthews' concern over 4 timeliness with this. If we had to then -- even if 5 we had contracts already established, in order for 6 that independent entity to then go in and do a 7 review, you're talking at least, I would think, 8 another 30 days for them to do their investigation 9 and be able to report back. 10 So it doesn't -- you know, it affects the 11 timeliness of -- of our being able to act on these. 12 And, you know, some of these, it's 13 timeliness because school years are going to begin 14 and budgets need to be made, and there's -- and 15 students, kids need to be placed in school. 16 So I'm concerned about how we affect the 17 timeliness. But I would support, you know, a 18 fail-safe option, that if PED did not -- was not 19 going to cooperate -- which I'm still astounded, you 20 know, that that's even being intimidated. But I've 21 heard it from them. So I certainly acknowledge it. 22 But I would hope that the -- so that's my 23 only concern with it, that it's going to affect the 24 timelines for all parties with being able to get 25 this done in a fair and expeditious time.</p>
<p style="text-align: right;">119</p> <p>1 don't want to cloud the water here or add an 2 additional burden for us to do. But I wonder if 3 there is potentially also an opportunity where we 4 can have the contracts in place if the PED is likely 5 not going to provide testimony on what we're seeing 6 at schools, regardless of what division it is, that 7 the PEC could call in and utilize, Like we have in 8 the past, like special -- special support services 9 for technical assistance that could provide us an 10 evaluation as well as to provide context when it 11 comes to something of -- of this level of urgency in 12 terms of revocation or non-renewal. 13 So just a thought. I don't know if -- 14 like I said, that might make things even more 15 complicated. But in the spirit of this, I'm just 16 thinking about how that's been very productive in 17 the past to have a special contractor support the 18 work of the PEC. And maybe this could be something 19 that we could tinker with. 20 Commissioner Gipson. 21 COMMISSIONER GIPSON: Sorry. Sometimes my 22 cursor goes to the iPad, and I can't get my desktop 23 to unmute. Sorry. 24 I think, ideally, we need the PED folks to 25 be offering their expert opinion. I appreciate the</p>	<p style="text-align: right;">121</p> <p>1 THE CHAIR: Thank you, Commissioner 2 Gipson. I was thinking about that through the lens 3 of the fail-safe bottle. So not necessarily the 4 ideal model, but getting the information we need, 5 when necessary, if we're not able to get PED 6 testimony. 7 Thank you for that. Commissioner Ingham. 8 COMMISSIONER INGHAM: I'm sorry, but I'm 9 really a simple guy. I don't understand. I thought 10 that CSD was -- that was their primary purpose was 11 to be our instrument for this. And I can't 12 understand how they could or would refuse to have 13 the input that they -- or to testify with -- about 14 input that they have provided. That just doesn't 15 make any sense to me. 16 And I'm just -- is it the legal department 17 of PED that's got some concern that they're going to 18 put some person in a compromising position or 19 something? I just -- I'm -- I am also 20 flabbergasted. And I just can't really process 21 this. 22 It seems like it's got to be -- it has to 23 be them that would testify. 24 But, like I said, I'm a pretty simple guy. 25 I'm sorry about this.</p>

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1 THE CHAIR: Thank you, Commissioner
 2 Ingham. Commissioner Carrillo.
 3 COMMISSIONER CARRILLO: I don't know you
 4 very well yet, Stewart. But I don't think you're a
 5 simple guy. I think that what -- you're nailing it
 6 right on the head.
 7 Because I think -- I can't -- it's just
 8 beyond imagination that we would not have anyone
 9 from CSD or PED support us in any kind of a hearing,
 10 whether it's a renewal or a revocation, and that we
 11 wouldn't call on them. And if they said no, that --
 12 it's, like, "Then what do you even exist for?" It
 13 makes me angry even thinking about it.
 14 The -- I would also say that should -- and
 15 I don't want it to come to this, but it could.
 16 There's always -- there's always experts that can be
 17 called.
 18 So if the PEC needed to contract for
 19 expert witnesses in a certain case, those people
 20 could then, you know, be called as well, based on
 21 their findings.
 22 But, yeah. No. PED -- CSD and PED, your
 23 obligation is to support the kids and support the
 24 Commission.
 25 THE CHAIR: Thank you, Commissioner.

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1 Ms. Matthews.
 2 MS. PATRICIA MATTHEWS: This is a question
 3 for Julia.
 4 Julia, under Rule 45, attorneys can sign
 5 subpoenas. Does it have to be in a filed case?
 6 MS. JULIA BARNES: I haven't looked.
 7 MS. PATRICIA MATTHEWS: I'll look at that
 8 while we're all doing this. I just -- also, I mean,
 9 you-all don't like to hear these sorts of things,
 10 but, you know, then you've got -- everything the
 11 Division does is public documents; right? So then
 12 you've got now this separate chunk of information.
 13 Let's say their position is either
 14 contrary, inconsistent with, or your expert says
 15 something different. Then you got a whole other
 16 problem on appeal.
 17 So, you know, I don't -- I -- again, I
 18 support all of the Commissioners who have voiced
 19 this astounding twist. I've been doing this since
 20 charter schools began. The Division has always
 21 supported the Commission.
 22 So I don't -- I'm trying to help figure
 23 out how do we get around this, because it doesn't --
 24 it makes no sense. They are, by statute, the staff,
 25 and why they wouldn't come and testify is just

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1 beyond me.
 2 THE CHAIR: Thank you, Ms. Matthews. Vice
 3 Chair?
 4 COMMISSIONER BURT: I guess I'm just
 5 interested to hear from Director Chavez or
 6 Dr. Russell as to just to the -- I'm -- I'm -- I am
 7 wanting to understand the reasoning behind this.
 8 DIRECTOR CORINA CHAVEZ: Sorry,
 9 Commissioners.
 10 I believe that we've discussed this, and
 11 that there have been meetings between the attorneys
 12 that included the Office of General Counsel,
 13 Ms. Barnes, and Ms. Matthews.
 14 So I don't think that we're trying to not
 15 support the PEC. I think that it's the way that
 16 this is worded, that it goes beyond even the Charter
 17 Schools Division, in saying staff of the PED would
 18 come to the hearing. And I believe this is a legal
 19 issue that Ms. Barnes understands well enough.
 20 COMMISSIONER BURT: Okay. So I'm not
 21 asking Ms. Barnes. I'm asking PED. I'm asking you,
 22 not anyone else. And I don't care about other
 23 conversations.
 24 I want to have the conversation right now
 25 of what -- what exactly -- what can we -- instead of

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1 deleting it, what can we do to where -- because we
 2 do need CSD staff, PED, PED staff, to tell us what
 3 they've seen at the school; right? When they've
 4 gone to the school, they have it, they're going to
 5 come talk to -- actually, I feel by eliminating
 6 this, this really takes away a lot of the power from
 7 CSD and the work that they do to -- and giving it to
 8 a third party. And I don't think that's actually
 9 beneficial for CSD, either.
 10 So what can we do to change it, then?
 11 Because I don't think -- eliminating it really
 12 doesn't make sense, because it is -- like, you -- or
 13 I guess it is -- is it your opinion that CSD should
 14 not testify at revocation or non-renewal hearings?
 15 DIRECTOR CORINA CHAVEZ: This is not my
 16 opinion that they should not. But I think -- and I
 17 don't know where the issue of third party came from.
 18 But this goes beyond CSD staff in the language here.
 19 COMMISSIONER BURT: Right. So if there's
 20 a special education issue, and it's serious, and
 21 let's say it's so serious that they are literally
 22 refusing to serve students with special education
 23 needs, and so we're going to revoke a school because
 24 we've gone through the intervention ladder, the
 25 Special Ed Bureau has obviously been there an

<p style="text-align: right;">126</p> <p>1 enormous amount because they're not serving these 2 special ed students, and we have to do a revocation, 3 should the Special Education Department be requested 4 to attend to answer questions about what they've 5 seen at the school? Or no, you think that should 6 not -- they should not be there to talk about what 7 they've seen at the school? 8 And, once again, this is just requesting. 9 It's a request that they come to answer questions, 10 not a mandate that they are there. 11 DIRECTOR CORINA CHAVEZ: Right. I 12 understand that. 13 COMMISSIONER BURT: So what -- so 14 should -- do you think, like, in your opinion, that 15 a person who is -- the special ed person that is 16 dedicated to that school should not be requested to 17 come to the hearing? 18 DIRECTOR CORINA CHAVEZ: I think that the 19 issue is that when it's written in rule, it goes to 20 a different level than a conversation that -- a 21 strategy conversation, actually, that I believe 22 should happen between the PEC and the CSD, rather 23 than the PEC or the PEC's attorney, who is not even 24 cc'ing the CSD, requesting specific people to be at 25 the PED to be at certain places.</p>	<p style="text-align: right;">128</p> <p>1 COMMISSIONER BURT: But would you -- as 2 the director, would you give a recommendation to 3 Legal that this would not be problematic if we were 4 to make this change across the board? 5 Unless the division communicated 6 (inaudible)... 7 DIRECTOR CORINA CHAVEZ: I think I would 8 say, "...the division may request..." And I would 9 feel good with that. 10 COMMISSIONER BURT: Is there anything else 11 in this that is concerning for you? In these two -- 12 these are the two sections, the -- so this one 13 already has that. 14 "If the school is relying on evidence or 15 opinions from another entity or other divisions or 16 bureaus at the department, the division..." So for 17 this one, this is the school presenting it. And it 18 does seem like -- 19 DIRECTOR CORINA CHAVEZ: Sorry. I think 20 because this came out early this morning, I haven't 21 reviewed that section. And now it was -- 22 COMMISSIONER BURT: Sorry. Sorry about 23 that. 24 DIRECTOR CORINA CHAVEZ: (Inaudible.) 25 COMMISSIONER BURT: Let me pull it back</p>
<p style="text-align: right;">127</p> <p>1 I think it needs to be a collaboration, 2 and I think language in the rule as is is 3 problematic for that reason. 4 COMMISSIONER BURT: So before you go on, 5 (inaudible due to simultaneous speaking). 6 DIRECTOR CORINA CHAVEZ: We've talked 7 about this ad nauseam, but -- 8 COMMISSIONER BURT: So how do we fix it? 9 Because right now, it says, "If the school or the 10 commission, if the case for revocation is based on 11 evidence..." -- if it is -- "...from the division or 12 other divisions or bureaus of the department, 13 counsel presenting the case will request that a 14 representative from that division or bureau be at 15 the hearing." 16 Should it be the same thing, that, "the 17 division shall request..."? 18 DIRECTOR CORINA CHAVEZ: I think that that 19 would be better, yes. 20 COMMISSIONER BURT: Does that solve the 21 problem? 22 DIRECTOR CORINA CHAVEZ: So I would want 23 to talk to our Office of General Counsel about this, 24 because I think that that changes it. And I would 25 need time to discuss that.</p>	<p style="text-align: right;">129</p> <p>1 up. So it's a very simple -- it's really simple, so 2 I don't think it's something that would take a long 3 time to review. 4 So right here, it's just that -- so if the 5 school brings up evidence, that the division will 6 request -- shall request -- someone to be there to 7 respond. 8 Which I think -- because the school can 9 just say whatever they want then; right? Like, they 10 can say "No. Special Ed came and visited us and they 11 said it was fine." 12 So if the school is the one saying it, 13 it's saying that, "The division shall ask that the 14 representative from that group be there to respond 15 to any questions." 16 That does seem appropriate, because like I 17 said, the school can say -- I mean, honestly, we 18 could say anything we want, too. It feels like it 19 really should be required that we do this. Like, 20 the "shalls" should be there, because I think it 21 just gives everyone the ability to say just whatever 22 we want in hearings without the people who are 23 actually at the schools and doing the work being 24 able to respond to their own work. 25 I'm just really scared it's taking away</p>

<p style="text-align: right;">130</p> <p>1 the ability for the staff at PED to do their job and 2 then be able to have it make a difference. 3 Like, I would imagine being really 4 frustrated if I'm a member of CSD or the PED staff, 5 and I've been to see this, really, school that's 6 having serious issues, and then I'm not even 7 requested to come speak on behalf of my own work, it 8 seems really off-putting; but...</p> <p>9 DIRECTOR CORINA CHAVEZ: May I respond to 10 that? 11 COMMISSIONER BURT: Yeah. 12 DIRECTOR CORINA CHAVEZ: So I think that 13 that has been happening, and there hasn't been a 14 rule. I don't think a rule -- if it's not in rule, 15 it doesn't mean that it won't happen. But if it's 16 in rule, and it says "shall," then I think that's 17 a -- that's a different thing. 18 COMMISSIONER BURT: What's the problem if 19 it's been happening anyway? 20 DIRECTOR CORINA CHAVEZ: (Inaudible due to 21 simultaneous speaking) and know that for years, it 22 has been happening, and it could continue to -- 23 nothing's going to stop us from -- 24 COMMISSIONER BURT: Then what's the 25 objection?</p>	<p style="text-align: right;">132</p> <p>1 little bit even less strong. 2 And, Corina, to your point, it has been 3 happening. I mean, at least for the entire time 4 that I've been involved in this work, it's always -- 5 it's always happened. 6 And so I hear you and what you're saying, 7 but -- that it makes it stronger in a rule. But if 8 it's already a best practice that we're doing, I 9 think it solidifies it when all of us are no longer 10 here, just like we talked about in other things. 11 And so I think that logically it makes 12 sense here. 13 And it doesn't say, "You absolutely have 14 to have the Special Ed Department come in." 15 It says, "You shall request them to come 16 in." And that's already not -- not -- that already 17 is in alignment to making sure that OGC was worried 18 about whether or not that was going to be best 19 practices for, you know -- you know, non-exempt 20 staff members, to make sure that they're not over 21 their hours, so on and so forth. 22 And so it seems like that's already in 23 alignment with the -- the spirit of it. And even 24 though I would like it stronger, it seems like it's 25 still -- like, it may or may not happen, because</p>
<p style="text-align: right;">131</p> <p>1 DIRECTOR CORINA CHAVEZ: All right. I'm 2 not here to argue. You asked my opinion. And I -- 3 and I -- 4 COMMISSIONER BURT: So I'm asking you what 5 is the objection? If we've been able to do -- if 6 it's been happening in practice -- 7 DIRECTOR CORINA CHAVEZ: If it's in rule, 8 it carries more weight and which could -- 9 COMMISSIONER BURT: What's wrong with 10 that? If it's just a perception of being told to do 11 something, it's a very juvenile way of looking at 12 it. 13 DIRECTOR CORINA CHAVEZ: All right. I -- 14 I -- 15 THE CHAIR: I do have -- I have do have 16 some opinions about this as well. 17 I think that it's already -- in my quick 18 opinion here -- and then, Commissioner Gipson and 19 Commissioner Carrillo, you'll have the floor. When 20 I see it says, "shall request," like, it doesn't say 21 "shall require." It doesn't say "absolutely needs to 22 happen." It's already very light in my opinion in 23 terms of the -- the way that this is written. You 24 know, it doesn't say, "It's going to happen." 25 And so I think "may" makes it even a</p>	<p style="text-align: right;">133</p> <p>1 you're just requesting it. 2 Commissioner Gipson. Then Commissioner 3 Carrillo. 4 COMMISSIONER GIPSON: Thanks. And I agree 5 that "shall" should stay in. I think it's important 6 for it to stay in. 7 I think it should also read that, "The PEC 8 shall request through the division," because it's 9 the PEC that's holding the hearing, not the Charter 10 School Division, so that the request may be coming 11 through the Charter School Division, but it's the 12 PEC still making the request for those divisions to 13 be there. 14 THE CHAIR: Thank you, Commissioner. 15 Commissioner Carrillo. 16 COMMISSIONER CARRILLO: Agree with Pattie 17 there and agree with you. 18 So the bigger issue -- well, first of all, 19 let me go back, because I know that was -- I think 20 you said something, about, Alan -- or Chair 21 Brauer -- about the Office of General Counsel. 22 If they want to be here, they should be 23 here, okay? They have people negotiating on their 24 behalf. And we're thinking that's in good faith. 25 And if this goes back and they don't like it, then</p>

<p style="text-align: right;">134</p> <p>1 they're not negotiating in good faith. They need to 2 own that.</p> <p>3 I think it's extremely unprofessional 4 having to go back to the Office of General Counsel 5 at this point for anything, okay?</p> <p>6 When I was doing union work, you know, you 7 had -- management had their people at the table. 8 And if they weren't authorized to say or do 9 something, then you shouldn't be at the damn table.</p> <p>10 Now, in terms of whether it's "shall," I 11 don't care if it says "may." The most important 12 thing is that the person that's being requested, 13 they shall attend. That's the meat of what this is, 14 that they -- you know, a request can be made, "Hey, 15 we need your representative from, you know, Special 16 Ed, whose school they -- they -- not (inaudible) -- 17 but they expected, we need that director at the 18 hearing."</p> <p>19 And PED and that person in Special Ed 20 shall not have -- must have the opportunity to say 21 no. It's not like we have subpoena power or 22 anything. But that's where the meat of this is.</p> <p>23 And whether -- you know, whether it's 24 someone from PED, CSD, or a specific department, the 25 meat of it is they're showing up, because they've</p>	<p style="text-align: right;">136</p> <p>1 that as, okay, let's -- there's a reality of that. 2 You know, the -- the Commission's decisions on 3 non-renewal and revocation are appealed all the 4 time. So it needs to be strong.</p> <p>5 And if you requested somebody, and they 6 don't show up, and you don't have a backup for that, 7 you don't have a strong case, and I don't know how 8 you're going to make it.</p> <p>9 So I'm going to want to know when those 10 people are going out, that they're going to testify, 11 and if they're not going to say yes at that time, 12 you know, and revocation could be six months down 13 the line or a year down the line, I'm going to want 14 you to have a strong case. And I do think that that 15 marginalizes anyone who won't commit to testify.</p> <p>16 And then I think that there is a reality 17 that every single one of these cases is different. 18 Some stipulate. Some are strongly contested. Some -- 19 you know, they're always really different in how 20 they present.</p> <p>21 So that was why, rather than try all of 22 the conversations we had about "five days from this" 23 and "this kind of information," it was just, like, 24 let's just have the Chairperson deal with the case 25 as it's presented. It's a short time frame,</p>
<p style="text-align: right;">135</p> <p>1 been told to.</p> <p>2 MS. JULIA BARNES: Can I be heard from? 3 THE CHAIR: Yes, ma'am.</p> <p>4 MS. JULIA BARNES: I -- what -- what I 5 tried to do here was clarify -- and I think it was a 6 good point -- that the Division not have to present 7 a case that it didn't necessarily agree with. And I 8 think we've resolved those as we go through.</p> <p>9 I think you can put this kind of thing in 10 here. I can tell you that -- as you know, you had 11 this conversation before, and you let that language 12 in, and it launched a whole lot of conversation that 13 I couldn't resolve, come to some kind of agreement.</p> <p>14 So I was somewhat trying -- I don't -- you 15 can leave it in there if you want.</p> <p>16 You know, I was -- I think the reality of 17 the situation is that the Commission is going to 18 need to know that it can prove a case as serious as 19 nonrenewal or revocation. It's a high-stakes -- it 20 is the highest stake.</p> <p>21 So if we're in a position where I think at 22 all that somebody is going to be asked and not come, 23 I'm going to do something else so that you can prove 24 your case.</p> <p>25 So that was why, in this draft, I struck</p>	<p style="text-align: right;">137</p> <p>1 particularly on non-renewal. You have to have that 2 that's correct. You're going to come up against it 3 in December. This felt like a pragmatic way to deal 4 with issues.</p> <p>5 So it's fine with me if you leave it in or 6 out. I can tell you you left it in, and it sent us 7 down a path that I couldn't resolve. So, you know, 8 the document that was provided to us was yesterday 9 morning. I think that Patty Matthews tried to see 10 if she could accept or not and ended up just putting 11 in a lot of things that were objectionable, which to 12 me said that there wasn't a way to resolve it.</p> <p>13 And I don't want to delay this. So I'm 14 going to go back to we have 57 schools with what I 15 consider to be unenforceable contracts. We have six 16 coming up next week. These are all schools that 17 are -- that you have renewed or you have approved. 18 These are not schools we're trying to shut down.</p> <p>19 And we are trying to find a relatively 20 simple notice and opportunity to be heard. And that 21 is where we've been -- I know that's where I've been 22 coming from. I know that's the position you've 23 taken. I feel like that's where the Charter Schools 24 have come forward.</p> <p>25 So I don't -- I just was trying to do</p>

138	<p>1 something a little bit simpler. And, frankly, maybe</p> <p>2 argue this battle in an MOU about what they are or</p> <p>3 aren't going to do, because if they are or aren't</p> <p>4 going do it, if they're not going to do it, I'm</p> <p>5 going to tell you to do something different, similar</p> <p>6 to what Chair Brauer said.</p> <p>7 So I also think that with a simplified</p> <p>8 version, there's 30 days for comment, and there's</p> <p>9 30 days for conversation with PED.</p> <p>10 So I was trying to limit that, you know,</p> <p>11 because if this goes tomorrow, I don't see a great</p> <p>12 Option B for any of this to be delayed further.</p> <p>13 I don't -- it's not going to get better</p> <p>14 with time. It's not going to get better with the</p> <p>15 tenth, the eleventh, the twelfth meeting. So that's</p> <p>16 at least what I was trying to do.</p> <p>17 And I -- I guess I've -- I'm back to the</p> <p>18 fact that it's 57 schools you approved that we're</p> <p>19 trying to support with a fair process. And I want</p> <p>20 something that seems as easy and straightforward as</p> <p>21 possible in these sections.</p> <p>22 And I couldn't come up with it -- I mean,</p> <p>23 I couldn't even see how you took the redline that</p> <p>24 was not a consensus document by anybody and was just</p> <p>25 getting twisted in my view. Let's make it simple</p>	140	<p>1 like, in Sections 2 and 3, that the Division doesn't</p> <p>2 have to make a case it doesn't agree with. That's</p> <p>3 fine. And so I think we fixed that.</p> <p>4 COMMISSIONER CARRILLO: And then I would</p> <p>5 ask Corina what's -- on that end, in short,</p> <p>6 specifically, what would be the hold-up, the</p> <p>7 sticking point on your end? And please don't say</p> <p>8 Office of the General Counsel anywhere in your</p> <p>9 answer.</p> <p>10 DIRECTOR CORINA CHAVEZ: So I believe that</p> <p>11 I stated the sticking points of -- I -- I -- or if</p> <p>12 you have a more pointed question, go ahead and ask</p> <p>13 it.</p> <p>14 COMMISSIONER CARRILLO: Okay. Then I</p> <p>15 think -- it seems that this idea of, you know,</p> <p>16 witnesses or people within PED being called on, that</p> <p>17 that somehow was a hurdle. And I don't see why it</p> <p>18 would be, because they work for PED, and PED would</p> <p>19 ask, you know, John Smith, You've got to attend this</p> <p>20 hearing." And, you know -- and, you know, testify</p> <p>21 about what you found. They don't have any choice.</p> <p>22 They're an employee of the PED. You've told them to</p> <p>23 do this; they're going to come show up.</p> <p>24 Language seems to be in there somewhere</p> <p>25 around the lines of, "The PED should ensure that the</p>
139	<p>1 and straightforward. And it's not a difficult --</p> <p>2 it's not a difficult idea.</p> <p>3 I guess if it was me, I would not put in</p> <p>4 anything about these witnesses, and I'd go back to</p> <p>5 the other, and I would -- you can do it if you want.</p> <p>6 But I don't want to start another loop around the</p> <p>7 rollercoaster.</p> <p>8 THE CHAIR: Commissioner Carrillo.</p> <p>9 COMMISSIONER CARRILLO: Can you scroll</p> <p>10 down, please? To the next page? Great. There.</p> <p>11 So in simple terms, what's the --</p> <p>12 specifically is the hold-up here? Julia, if you</p> <p>13 wouldn't mind, what's the hold-up here? Simply.</p> <p>14 And then I have follow-up.</p> <p>15 MS. JULIA BARNES: I'm trying to say it</p> <p>16 simply to you. And I know you're wanting -- the</p> <p>17 more detail that got put in here, the more no one</p> <p>18 could agree.</p> <p>19 COMMISSIONER CARRILLO: Okay.</p> <p>20 MS. JULIA BARNES: So I went back to what</p> <p>21 you approved and tried to make it be simple. And I</p> <p>22 tried to do two things. I tried to say, "The Chair</p> <p>23 is going to deal with this and figure out all of the</p> <p>24 potential nuances."</p> <p>25 And then there is an agreement starting,</p>	141	<p>1 individual whose presence has been requested..." --</p> <p>2 and then I don't know what you put there -- but</p> <p>3 shows up, is present at, you know, said hearing.</p> <p>4 And if that's a sticking point, I mean</p> <p>5 that language to be something like it fixes it, and</p> <p>6 then we can move on.</p> <p>7 DIRECTOR CORINA CHAVEZ: So, Commissioner</p> <p>8 Carrillo, thank you for the question.</p> <p>9 And, you know, I -- this is not an easy</p> <p>10 process. I'm in the middle; right? I work with</p> <p>11 you-all as the Commission, and I do what I can to</p> <p>12 meet the Commission needs and help the Commission to</p> <p>13 be successful in the oversight of the schools and</p> <p>14 recommendations.</p> <p>15 And I think you've seen that over the past</p> <p>16 couple of years.</p> <p>17 I also work for the PED. And I don't know</p> <p>18 that when there is comments that say, "Why aren't</p> <p>19 they here? They have no respect for us. They --</p> <p>20 you know, we should be able to demand that people</p> <p>21 show up," that there's an appreciation for the fact</p> <p>22 that PED staff, like right now, Jeff and Aaron are</p> <p>23 in a hearing; right?</p> <p>24 Like, you set this meeting. You didn't</p> <p>25 ask them what time they might be available or if</p>

<p style="text-align: right;">142</p> <p>1 they -- if this date worked. And, in fact, when we 2 did talk about timeline, we were very clear about, 3 like, what dates things needed to happen. 4 And the PEC is operating, as it wants -- 5 which, you know, we're here. Brigitte and I are 6 here. We've showed up at every meeting that we need 7 to, and we're here to work with you. 8 But it just -- it has to be -- it's 9 difficult. And I would say that in terms of any 10 language about asking people to come, I think that 11 "may request" is nice language. I don't think 12 "shall" is. I don't think that -- that that would 13 bode well for many reasons. 14 COMMISSIONER CARRILLO: Okay. I agree 15 with you on the "may." I mean, because they don't 16 have to request. Telling them they have to request 17 somebody is telling them to do something with their 18 case that they don't want to do. 19 To me, like I said before, the "may 20 request" is fine. It's the getting -- if they do 21 make the request, that's where I think there needs 22 to be the accountability. 23 PEC can't direct PED to do anything; 24 right? You're not our employees. And so we can't 25 go in there and 300 Don Gaspar -- I can't go into</p>	<p style="text-align: right;">144</p> <p>1 ask. They can request somebody, but once the 2 request is made, then the accountability piece is 3 the person actually coming to the hearing, you know. 4 DIRECTOR CORINA CHAVEZ: Right. That's 5 the part that's hard. 6 COMMISSIONER CARRILLO: That's what it is. 7 And I know that you're between a rock and a hard 8 place. You're serving, in essence, two masters, and 9 it's challenging. But I also -- I would imagine at 10 some point, as management would do, that they've set 11 a boundary. They've set a deal-breaker for you not 12 to compromise. 13 And I don't know if that's what you 14 wouldn't -- if that's what Chair Burt was 15 touching -- not Chair Burt -- but if -- Rebekka was 16 touching on. She was never going to get you to say 17 what she wanted you to say. That became super 18 clear. 19 So we have to go around it another way. I 20 would like to not get stuck on these paragraphs for 21 another two hours. I didn't know this was going to 22 be an all-day meeting. I actually had a client 23 scheduled. I'm happy to do the work. It's what I'm 24 here for. But I want to move forward. Always 25 moving forward.</p>
<p style="text-align: right;">143</p> <p>1 anybody's office and say, "Hey, I need this report 2 run." 3 No. They don't work for me. They don't 4 work for the Commission. They work for you. 5 But when the request is made, or if the 6 request is made, PED shall essentially make sure the 7 person shows up. 8 DIRECTOR CORINA CHAVEZ: So, again, 9 Commissioner Carrillo, with all respect, that is 10 hard. That is hard, because I don't -- I don't 11 think that we can say where staff have to be, 12 especially outside of the division. 13 COMMISSIONER CARRILLO: Of course you can. 14 A manager -- of course you can. You or the 15 Secretary or somebody who's head of another 16 department, you can ask one of their -- I was 17 going -- one of their staff who's involved in this, 18 "Hey, this is part of your job requirement. I need 19 you to go to this hearing and testify about what you 20 found." 21 I mean, to say that management can't ask 22 an employee something -- 23 DIRECTOR CORINA CHAVEZ: No, can't -- you 24 said they may ask, but then you said they have to -- 25 COMMISSIONER CARRILLO: The school may</p>	<p style="text-align: right;">145</p> <p>1 DIRECTOR CORINA CHAVEZ: I appreciate 2 that. And I also want to move forward and have 3 dedicated an enormous amount of time to this. And 4 then skipping out on Spring Budget Workshop right 5 now, which I think is another part of my job to 6 understand what has come down the pike -- well, 7 whatever. I'm not going to waste our time saying 8 why it's important for me to be at Spring Budget 9 Workshop. 10 But just so you know, I also feel like 11 I've showed up at a meeting -- 12 COMMISSIONER CARRILLO: Then I guess what 13 I would say is -- and this maybe is to Julia as 14 well -- what gets us to yes, okay? Because right 15 now -- right now we're spending -- and I totally 16 understand and respect all the points of view, 17 including my own that go into the mix. 18 But then there's that point where you've 19 got to put all these ingredients together, and 20 you've got to come up with your stew. You've got to 21 come up with the end run. 22 And so what do we need in the next 23 ten minutes to go up with the end run? Because 24 that's where we're at, kind of an impasse, but I 25 think we can get past it.</p>

146	<p>1 MS. JULIA BARNES: If you want me to 2 answer that, I think you strike those two sentences 3 now -- or three, that you don't put it in into the 4 rule. I mean, the last time you put it into the 5 rule, we had another four meetings about it, and I 6 couldn't even come up with something that I -- 7 COMMISSIONER CARRILLO: The color keeps 8 changing. But which -- 9 MS. JULIA BARNES: In red. Those two 10 sentences. 11 COMMISSIONER CARRILLO: It keeps moving 12 and changing, and it's really hard to follow. 13 MS. JULIA BARNES: I think we leave out 14 whether they're going to -- I think we leave out 15 anything that talks about what the -- what the 16 Department's going to do. 17 And then it's a practical solution for us. 18 And my practical solution is when we are requesting 19 that somebody go out and look at special ed for the 20 school, we confirm that they're going to testify. 21 And if they're not going to testify, we send 22 somebody who will. 23 COMMISSIONER CARRILLO: We cross that 24 bridge when we come to it. 25 Okay. Can we have the document back up?</p>	148	<p>1 other Commissioners? It works for me. 2 THE CHAIR: Commissioner Gipson, you had 3 your hand raised, but then you unraised it. And I 4 just wanted to make sure if there was something on 5 your mind. 6 COMMISSIONER GIPSON: I'm fine. If we're 7 going to eliminate that, then I don't have any 8 further comments. 9 THE CHAIR: I'm good with deleting it. 10 MS. PATRICIA MATTHEWS: I'm sorry. I'm 11 confused. This is Patty. 12 What are we deleting? This -- yeah. Can 13 you -- yeah, I need to read that. 14 I just wanted -- to me, there's nothing -- 15 I think at this point there's nothing we can do 16 about it. 17 I think that the whole point of what we 18 were doing was to establish a fair -- a fair 19 hearing. And when you take away the ability to 20 bring in competent evidence, which is direct 21 evidence from the individual, that's being 22 jeopardized. 23 But it is what it is. And then we still 24 have those exposures that we were trying to 25 eliminate.</p>
147	<p>1 Can we have it not moving? Can we have the 2 sentences Julia is specifically referring to on the 3 screen? 4 COMMISSIONER BURT: I literally have to 5 move it to get the sentences on the screen. So be 6 patient with me. I'm doing the best I can do, 7 Steve. Calm down. 8 COMMISSIONER CARRILLO: It's like 9 (Commissioner Carrillo indicates). 10 COMMISSIONER BURT: That is what we're 11 preparing is deleting all the red now. So I 12 highlighted in yellow, because they were the parts 13 we needed to discuss. Now the proposal, from what 14 Julia just said based off of your answer -- off of 15 your question, Steve, is to delete all of the red. 16 So it's four parts, and leave, now, the 17 yellow, which is just that they work together five 18 days -- within five days, the Chairperson -- they 19 meet with everyone, and they figure it out, and then 20 delete everything to do it with below. 21 COMMISSIONER CARRILLO: Leave the yellow, 22 delete the red. I'm fine with that. What are the 23 thoughts of the other people? Does that work for 24 you, Dr. -- Dr. -- Dr. -- there's too many doctors. 25 Dr. Russell and Ms. Chavez? Does that work for</p>	149	<p>1 But I don't know that we can get anything 2 further. And, you know, I'll make that comment in 3 the formal rulemaking. But it doesn't sound like 4 the Department is willing to make -- make these 5 hearings as transparent and fair as they -- as was 6 the intent of the rule when you first drafted it. 7 THE CHAIR: Vice Chair Burt, and then 8 Commissioner Ingham, and then Commissioner Carrillo. 9 COMMISSIONER BURT: I'll just say that I 10 actually think it's really embarrassing to delete 11 these. 12 But I'm definitely not willing to hold up 13 the whole thing over something like that. So that's 14 the only reason I'm going to support it. 15 I don't support it, but I will, in order 16 to progress it. Because if this is going to be 17 something that PED is going to stick to, like, 18 honestly, it is embarrassing. Like, it's 19 embarrassing for me as a PEC Commissioner to have 20 that not be something that we can just, you know, 21 commit to. 22 But I'm -- think that the bigger picture 23 is more important than that. So if that's the thing 24 that PED is going to be weird about, then, by all 25 means.</p>

<p style="text-align: right;">150</p> <p>1 And I also think if this is something that 2 becomes problematic in the future -- like, if this 3 is something that's always happened and there's 4 actually -- and it's going to continue into the 5 future, great. If it becomes problematic, we can 6 always try to do something later. Actually, it may 7 be problematic already. 8 But I'm embarrassed to support taking it 9 out. But I will in order to keep it moving, because 10 I don't want it to be used as an excuse to throw the 11 baby out with the bathwater. 12 THE CHAIR: Commissioner Ingham. 13 COMMISSIONER INGHAM: I guess the legal 14 counsel for PED, I would -- I would -- I guess I 15 would like to know that the Secretary has been 16 informed of this issue and that he agrees with the 17 stance that they're taking on this, and if it was -- 18 if we could actually know that he's -- he's also in 19 that same -- in that same -- same point, if he is on 20 the same page as the legal counsel for PED. 21 Thank you. 22 DIRECTOR CORINA CHAVEZ: May I respond to 23 that? 24 THE CHAIR: Commissioner Ingham, I would 25 say yes, he is.</p>	<p style="text-align: right;">152</p> <p>1 Constitution, all of them -- so many of them not 2 complying with subpoenas. Because if you and I 3 didn't comply with a subpoena, we'd be in jail. 4 That's what this reeks to me of, that 5 they -- and we're kind of allowing that sort of 6 thing to happen by not including the language in 7 red. It makes us like the toothless tiger, which 8 I -- I don't ever -- I don't want to be on this 9 commission. 10 I mean, I would -- I would defer to the 11 will of the Commission, to those of us that are 12 present today, to either leave the -- the colors 13 keep changing -- purple, red, whatever -- to leave 14 its language in or to go with the yellow and move 15 forward. 16 THE CHAIR: Commissioner Gipson. 17 COMMISSIONER GIPSON: So, A, I want to 18 move forward. B, I want to move forward as quickly 19 as possible. I'm unwilling to prolong this till -- 20 till May. 21 I think it's a -- it's a ridiculous notion 22 as long as we have. I don't think the changes that 23 we're making have been substantive enough. And any 24 of the changes that we are making are more in 25 compliance with what PED wants.</p>
<p style="text-align: right;">151</p> <p>1 Corina, you can go ahead and share more. 2 DIRECTOR CORINA CHAVEZ: I was going to 3 say that -- thank you, Commissioner Ingham, for 4 asking that question. I think that's a really 5 important question, because in the end, the rule is 6 promulgated through the Secretary. 7 And one of the reasons why I believe that 8 this rule is going to have to go out in May is 9 because there needs to be time for him to look at it 10 all, in totality, with new ideas that came up 11 yesterday and new ideas that came up today, new 12 language. I think he needs to be able to see it. 13 And there needs to be time for him to 14 agree with it all. 15 But, in general, yes, I think the answer 16 to your question is yes. 17 THE CHAIR: Commissioner Carrillo. 18 COMMISSIONER CARRILLO: You know, I'm 19 thinking about what Commissioner Burt said in terms 20 of moving forward and reluctantly taking it out. 21 And I feel the same way. It's really kind of -- I 22 don't know that I would use the word "embarrassing." 23 But it's astonishing that we can't have it in. 24 It reminds me of all of the people, 25 elected officials who swore an oath to the</p>	<p style="text-align: right;">153</p> <p>1 So for PED to have to look at it further, 2 I think is a ridiculous notion. Because we just 3 seem to be, in many respects -- I'm just going to 4 quickly say -- caving. And that's probably not the 5 right word. But, you know, I don't want to be doing 6 that. 7 I would prefer the language to stay in. 8 But I don't want this to be prolonged. That's my -- 9 that's my challenge here. I strongly support the 10 language that we had, because it clearly did not say 11 those divisions "shall" be there. It says, "The 12 Commission shall make their request through the 13 division." 14 It's plain and simple. It just outlined 15 how we were going to make the request for those 16 people to be there. And if they don't come, we deal 17 with it later. 18 But if -- in Julia's mind, that's what's 19 going to hold it up, then I will reluctantly agree 20 to take it out. That's where I'm sitting at this 21 moment in time. 22 THE CHAIR: Thank you, Commissioner. 23 Should we move on into any other 24 substantial items here, Vice Chair? Are we pretty 25 much done and close to the end here?</p>

<p style="text-align: right;">154</p> <p>1 COMMISSIONER BURT: So this is the last 2 thing I see. I don't know if we need to talk about 3 it, or if it just is what it is, or if this is going 4 to be changed, or what's the problem with this one, 5 Julia. So this is the only (inaudible) revocation, 6 if this was already agreed to.</p> <p>7 MS. JULIA BARNES: That's the same idea as 8 above, which is everything's going to come in 9 already in the record of performance for revocation. 10 There's not any renewal language here, because it's 11 a revocation.</p> <p>12 And it's the same five days. So it just 13 puts it in there again.</p> <p>14 And we had already put in the idea that 15 the Commission may present its own. So there's not 16 anything -- it's not -- it's the same idea, just 17 replicated into revocation.</p> <p>18 COMMISSIONER BURT: So, then, yeah, that 19 should be the last thing -- I can go in, Julia, and 20 clean up 5b.1 a little bit more, based off of this 21 one, but...</p> <p>22 MS. JULIA BARNES: No, I can do it. I'm 23 just going to cut and paste that.</p> <p>24 COMMISSIONER BURT: I don't necessarily 25 expect this to happen. But -- and now I don't --</p>	<p style="text-align: right;">156</p> <p>1 able to have it in there and do it through the 2 Division, that it's a Commission directive instead, 3 I just don't -- it would be nice to be able to have 4 that. But once again, don't want to -- I'm not 5 interested in making it to making it any reason to 6 not have it approved tomorrow instead.</p> <p>7 THE CHAIR: Dr. Russell.</p> <p>8 DR. BRIGETTE RUSSELL: Thank you, Chair 9 Brauer. Had a clarifying question. I may not have 10 been tracking, and I want to make sure I understand. 11 I -- I liked Commissioner Gipson's 12 discussion. The Commission shall request through 13 the Division. And then I think where things got a 14 little bit muddled was in the conversation between 15 Director Chavez and Commissioner Carrillo about 16 employees need to show up, if we call them, they 17 have to come.</p> <p>18 If I just -- I wondered if Director Chavez 19 could clarify. Was the point of contention PED 20 employees being required in rule to show up at 21 hearings? Or was -- was the language, "The 22 commission shall request through the division..." in 23 and of itself problematic without the other part?</p> <p>24 DIRECTOR CORINA CHAVEZ: I think the 25 notion of there being an expectation that PED</p>
<p style="text-align: right;">155</p> <p>1 yeah, I also just don't have confidence about 2 tomorrow now. Even though I also agree. I don't 3 actually think we just accepted a lot of like what 4 the PED conversation was. It feels like it's not 5 going to be a massive change to review.</p> <p>6 But I think one thing that would be nice 7 to be communicated in that -- especially if we could 8 do it tomorrow -- is I wonder if that language -- I 9 mean, the -- if the issue was that -- you know, that 10 the -- that the Commission was directing -- or was 11 directing the Division too much, or that it was 12 telling the Division what to do, if it -- changing 13 it to say that the Commission, through the Division, 14 would do this, that it's directing us to do it, like 15 Commissioner Gipson said, if that would suffice to 16 be able to include that language, but that it's 17 directed to the Commission making the request 18 through CSD, if that changes things, too, it would 19 be nice to just have that being proposed to the 20 legal team so that they can review that to see if it 21 would -- could be allowed to be stayed in there 22 for -- and still get accepted tomorrow, but then 23 knowing the Commission is, like, "Yeah, we'll take 24 it out if it's going to be problematic." 25 But if it wouldn't be problematic to be</p>	<p style="text-align: right;">157</p> <p>1 staff -- and then here's where the language has had 2 so many versions that I could not quote you the 3 exact version that was discussed -- but the notion 4 of there being an expectation that staff show up at 5 the hearing.</p> <p>6 That's why I -- I think the word "may," 7 not "shall," is important, and that if it's the 8 Charter Schools Division that is requesting, I think 9 that's more palpable than if we're -- if the 10 Commission is asking.</p> <p>11 And as I said before, I think that the way 12 we're going to be successful in preparing for any 13 hearing at all is through stronger collaboration, so 14 that in the end, I think that what we want can 15 happen as long as we are working together to make it 16 happen.</p> <p>17 THE CHAIR: Yeah. Just as -- just -- I 18 think that we're on the right path here. I don't 19 like it. I don't like this path, much to the 20 chagrin that others have shared. I think that it -- 21 you know, just so I'm clear, Dr. Russell, the way I 22 read that is that we "shall" request, not shall -- 23 everyone needs to show up when we tell them to. And 24 I think that's the big difference. And that's not 25 at all what that says right now.</p>

<p style="text-align: right;">158</p> <p>1 But I think that's going to be the 2 interpretation ongoing. Just like Director Chavez 3 just mentioned, that's her interpretation, that it 4 sounds like it's we will request it, and that means 5 that you have to show up. Even though that's not 6 what that says, I would rather not risk this being 7 held up and just move on from it. That's my 8 opinion; so similar to what Vice Chair Burt and 9 Commissioner Gipson have mentioned already.</p> <p>10 MS. JULIA BARNES: We need to talk about 11 next steps.</p> <p>12 There is a contract to review. I'd like 13 Patty Matthews to jump in here. I think she and I 14 both think the contract will not -- you know, while 15 needing discussion with a strong rule, that's one 16 discussion. You know, the rule is there's 17 sufficient due process, it's the protection of the 18 rights of the parties. All parties. All parties 19 are told what to do in this rule. All parties kind 20 of can do their job if the rule is strong enough.</p> <p>21 So, one is while the Secretary has 22 indicated that he's the one who needs to sign off, 23 this is a rule for PEC. The rule itself indicates 24 that it's something that you've signed off on.</p> <p>25 So this notion that -- on the rule, that</p>	<p style="text-align: right;">160</p> <p>1 That's one suggestion. Don't approve it 2 today. The PED can do that final technical revision 3 and come back and tell you what it is that it looks 4 like.</p> <p>5 The next question is what do you want to 6 do about -- what does anybody want to do about the 7 contract? The way the contract is drafted is it 8 indicates that the PEC is in the process of 9 finalizing a rule and that until that final thing 10 gets published in the State Registry, that the 11 document, you know, is temporarily attached to it. 12 So that is a mechanism to not hold up the contract.</p> <p>13 And if that's the case, and that 14 temporary -- you know, this is what's going -- you 15 know, this is what is there until the rule is 16 finalized, within the contract, it says once it's 17 finalized, you go with the rule -- so it's this 18 internal thing -- then we can discuss the contract 19 today.</p> <p>20 So I guess I would like to do that. And I 21 don't know what you-all think, and I don't know what 22 Patty Matthews, on behalf of the schools thinks.</p> <p>23 THE CHAIR: Ms. Matthews.</p> <p>24 MS. PATRICIA MATTHEWS: Sorry. I'm not 25 prepared to talk about the contract today. A, as I</p>
<p style="text-align: right;">159</p> <p>1 it can be turned on its head, and you guys just have 2 to live with it is not correct. You have the rule 3 as drafted, and I believe strongly supported by the 4 law, is that they can't force things on you.</p> <p>5 You already approved it once. They 6 already came back with a very extensive redline. So 7 I don't know if you want to approve this or you want 8 me to clean this up and submit it to them and see 9 what their final version is so that you guys can see 10 or to try it the other way, and we're already back 11 here again.</p> <p>12 So one is how to finish the rule.</p> <p>13 The second is what to do about the 14 contract.</p> <p>15 I think if this rule, the draft rule, is 16 approved in a way that we anticipate and that you've 17 discussed today, I think it's strong, and we can 18 finish the contract based on that.</p> <p>19 I'm not speaking for Patty Matthews or any 20 of her schools, but -- so I guess one is how do you 21 want to leave it? I feel a little bit like don't 22 finish it now. Give me direction that you've given 23 me to submit a clean version to them and ask them to 24 come back with what they're willing to publish, and 25 then you approve that.</p>	<p style="text-align: right;">161</p> <p>1 said in my last e-mail, Julia, we got to a point, 2 and I needed the rule to be in place, because if -- 3 and right now we don't even have a final rule -- 4 form of a rule.</p> <p>5 So let's say that the Division -- or the 6 Department, once again, makes substantial redlines 7 in the document, which they have done -- or for the 8 Commission's edification, they have gone in and made 9 changes, then they've had discussions, then they've 10 changed it back, then they've gone back and forth. 11 So I don't know what they're going to do with this 12 rule.</p> <p>13 Until I know what the rule is, I cannot 14 then go to the contract and say where are the gaps? 15 Where are the gaps that need to be in the contract 16 that are not in rule? Because as the rule is 17 written, it had substantially covered all of the 18 things that I thought needed to be in the contract 19 in various places.</p> <p>20 So I'm not real comfortable, given the 21 last version of the contract which is still in a 22 pretty heavy redline, Julia, to talk about the 23 contract and then hypothetically assume what the 24 rule is actually going to say.</p> <p>25 Even today, with the revisions and the due</p>

<p style="text-align: right;">162</p> <p>1 process sections, I'm, like, I need to really stop 2 and think. Is there something that really should be 3 in the contract that now we've been forced to carve 4 out of the rule because of the Department? 5 And so that's my position. You asked, and 6 that's how I feel about the contract at this point. 7 I do, Commissioners, want to say I think 8 we are close. We're close to a good contract. A 9 lot of it hinges on what that rule will say. 10 So I think Julia and I have done a lot of 11 really hard work on that contract and whoever else 12 participated. But I just don't think today is a day 13 I would be in a place to say -- because, frankly, 14 this is negotiating the terms of the contract, to 15 say, "Yes, my clients would be comfortable with all 16 of that." 17 THE CHAIR: Commissioner Gipson. Then 18 Commissioner Carrillo. 19 COMMISSIONER GIPSON: Yeah. I think at 20 this point in time -- and thanks, Patty, for 21 weighing in like that -- that discussion on that 22 contract has to wait. I want to do today whatever 23 we have to do to make sure that that rule is 24 published tomorrow, because we're going into 25 contract negotiations starting on Tuesday, and I</p>	<p style="text-align: right;">164</p> <p>1 suggestions. We make those changes, and then it's 2 final. 3 But this moves it forward. And I agree -- 4 and thank you, Ms. Matthews, the comments about -- 5 it makes no sense to do the contract right now 6 without this piece going forward, the rules piece. 7 So that would be my preference. Thanks. 8 MS. JULIA BARNES: Commissioner Carrillo, 9 just to clarify, the -- you need a finalized draft 10 version. So if we give it to PED tomorrow -- which 11 is what we did two weeks ago. We gave it to PED, we 12 said it was final, and they said, "No, it's not, 13 here's a very lengthy redline." 14 So if you -- that says to me if you want 15 to try for it, you vote on it, and you allow the 16 subcommittee, the rules subcommittee, to review what 17 we've decided today so that that -- you know, that 18 we're not changing the intent of what the Commission 19 wants. 20 And then I guess I'll echo what Patty 21 Matthews said. These are all the things the PED 22 wanted. We didn't suggest any other new 23 information. We are in response to what they have 24 asked for, and, I think, made a lot of changes based 25 on what they've asked for.</p>
<p style="text-align: right;">163</p> <p>1 want to make sure that we can assure the schools 2 that we will have a contract in place as soon as 3 possible so that hopefully, through the work session 4 meeting next week and whatever subcommittee work 5 that needs to be done, can be done quickly to get 6 this -- get the contract. 7 Because I do believe we're in a -- we're 8 in a way better place with the contract than we have 9 been. I don't think there's going to be a lot of 10 changes. But not knowing what -- what that final 11 view of that rule is going to be, who knows? And 12 that's -- to me, that's the unknown that makes it 13 very difficult to talk about the contract today 14 without knowing what that rule completely looks 15 like. 16 But I just want to do whatever we need to 17 do today to make sure that that rule is published 18 tomorrow. 19 THE CHAIR: Commissioner Carrillo. 20 COMMISSIONER CARRILLO: I agree with -- 21 with Commissioner Gipson. Everything we need to do 22 to make it published tomorrow. 23 As I understand it, even though it's 24 published tomorrow, the rules -- the people that 25 look at it, they can come back to us with their</p>	<p style="text-align: right;">165</p> <p>1 So that means that you vote, get the 2 subcommittee to confirm that it's correct so they're 3 not changing anything that you vote. But they're 4 confirming that draft, and then we try to push it 5 forward. 6 Then what happens is the draft is posted 7 for the public to provide comment, and there's a 8 hearing in a month. So there's more conversation. 9 And I think Patty Matthews even says she'll make 10 some -- she's always said she'd make some more 11 comments, which is fine. That's what the process 12 is. 13 But that means that you vote today. And 14 my suggestion is you vote and give the subcommittee 15 the ability to confirm that the draft is what you -- 16 in substance, what you agreed to. 17 COMMISSIONER CARRILLO: Okay. So I -- 18 thought I was really clear. 19 So based on what Ms. Gipson said -- and I 20 think -- this is a -- it's always funny to me when 21 someone uses the phrase in anything, "final draft," 22 because that's kind of an oxymoron; right? 23 So we have our final draft that we vote on 24 today. This is what then goes -- please correct me 25 if I'm wrong -- this then goes to the State to be</p>

<p style="text-align: right;">166</p> <p>1 posted for a month.</p> <p>2 No. Because I hear Rebekka's -- I see you</p> <p>3 shaking your head no.</p> <p>4 I want what makes this go forward quickly</p> <p>5 to be -- so it can be posted for the month, come</p> <p>6 back with whatever comment -- whatever agency it is</p> <p>7 with the State that's going to make some comments,</p> <p>8 and then we make -- talk about those and make some</p> <p>9 maybe subtle changes, and that's that.</p> <p>10 If there's a point at which -- honestly,</p> <p>11 sometimes I think they just make sport of it -- PED</p> <p>12 would have come back -- or the General Counsel --</p> <p>13 would have come back with a whole bunch of new</p> <p>14 redlines, I mean, I wouldn't -- part of me -- the</p> <p>15 reactionary part of me says, "Let's, you know, sue</p> <p>16 them for not bargaining in good faith," because it's</p> <p>17 just ridiculous, the way they just do this. And it</p> <p>18 really just seems like they just do it for sport at</p> <p>19 some point.</p> <p>20 And I'm not saying that anyone in CSD is</p> <p>21 involved in that at all, but just that somehow the</p> <p>22 General Counsel's Office -- I don't know.</p> <p>23 Anyway, whatever moves us forward quickly,</p> <p>24 gets it posted, gets comment, and lets us put this</p> <p>25 to bed so that we have don't have to visit this, we</p>	<p style="text-align: right;">168</p> <p>1 COMMISSIONER CARRILLO: I'm not.</p> <p>2 THE CHAIR: Yeah, let's hold on to that</p> <p>3 real quick and then --</p> <p>4 COMMISSIONER BURT: We basically accepted</p> <p>5 all of PED's changes. So, I mean, I don't know -- I</p> <p>6 don't think there's a single change that wasn't just</p> <p>7 accepted throughout this day. Every single thing</p> <p>8 was accepted by PEC. So I don't know if you even</p> <p>9 need a new draft. Just tell PED to accept all their</p> <p>10 tracked changes. That's literally it. That's the</p> <p>11 whole thing; right?</p> <p>12 MS. JULIA BARNES: I'm going to want to</p> <p>13 review it.</p> <p>14 COMMISSIONER BURT: I know. I know.</p> <p>15 MS. JULIA BARNES: And I'm going to want</p> <p>16 the subcommittee to review it. But, you know, I --</p> <p>17 I don't know if we can -- I don't think we can</p> <p>18 commit till tomorrow.</p> <p>19 I want -- I want to say that it has been</p> <p>20 clear that this meeting was on the 12th for a very</p> <p>21 long time. And so any implication that this</p> <p>22 commission hasn't been trying to address PED's</p> <p>23 changes is something that is triggering me. So</p> <p>24 we've turned it around every single time as quickly</p> <p>25 as we could.</p>
<p style="text-align: right;">167</p> <p>1 can do our contracts like we need to in the future.</p> <p>2 THE CHAIR: Commissioner Burt -- or Vice</p> <p>3 Chair Burt.</p> <p>4 COMMISSIONER BURT: Actually, maybe you</p> <p>5 should let Corina and Patty go, since -- because I</p> <p>6 was going to start making a motion.</p> <p>7 THE CHAIR: Okay. Great. Director</p> <p>8 Chavez. Then Ms. Matthews.</p> <p>9 DIRECTOR CORINA CHAVEZ: Thank you.</p> <p>10 Commissioner Carrillo, I don't think anybody is</p> <p>11 trying to make a sport. I think everybody has done</p> <p>12 their best. I think the rule has come a long way.</p> <p>13 I think we're at a point right now where we would be</p> <p>14 asking Policy to turn this around in less than one</p> <p>15 day. I -- I don't know that that's possible, and</p> <p>16 especially because the Secretary needs to review it,</p> <p>17 and it's Spring Budget Workshop, and he's presenting</p> <p>18 in about an hour.</p> <p>19 So my simple question before the motion is</p> <p>20 made is when can I get an e-mail of whatever this</p> <p>21 group has finalized from today?</p> <p>22 COMMISSIONER CARRILLO: Who did you pose</p> <p>23 that question to?</p> <p>24 DIRECTOR CORINA CHAVEZ: Whoever is going</p> <p>25 to send it to me.</p>	<p style="text-align: right;">169</p> <p>1 So I -- if a subcommittee is available to</p> <p>2 look at a document, then I think we need to get</p> <p>3 it -- and Patty Matthews hasn't spoken -- we need to</p> <p>4 get it to her, confirm that these changes are -- are</p> <p>5 correct.</p> <p>6 I agree. I don't think it's going to be</p> <p>7 hard to do it. I just want to make sure that, you</p> <p>8 know, I've thought about it and given it to you so</p> <p>9 that the subcommittee can think about it.</p> <p>10 But I don't think there's much in yellow</p> <p>11 that we need to draft the language.</p> <p>12 THE CHAIR: Ms. Matthews. Then Director</p> <p>13 Chavez.</p> <p>14 MS. PATRICIA MATTHEWS: I'm just trying to</p> <p>15 work through a solution here for the contract.</p> <p>16 So, Julia, the concept that -- the</p> <p>17 Commission has proposed to vote on the version</p> <p>18 today; right? But you're -- I heard you say it</p> <p>19 might make more sense that the Department make its</p> <p>20 own comments so that we're not having to go back and</p> <p>21 forth.</p> <p>22 So I guess that -- even if the Commission</p> <p>23 does vote today, what is the -- and I just don't</p> <p>24 see -- I guess I have to agree. I don't see that</p> <p>25 it's even possible for it to be posted tomorrow. So</p>

<p style="text-align: right;">170</p> <p>1 that kicks us down the can; right?</p> <p>2 I guess -- the question for me is when is</p> <p>3 the Department going to comment on whatever the</p> <p>4 Commission does today? And can we then, from</p> <p>5 there -- I'm just trying to figure this out. Could</p> <p>6 we then use that draft and attach it to the contract</p> <p>7 and have some reliability on getting this contract</p> <p>8 moving forward?</p> <p>9 I'm just trying to move through getting</p> <p>10 into the contract, getting into a closed form,</p> <p>11 moving around the procedural issues of the</p> <p>12 rulemaking. But maybe I'm not making myself clear.</p> <p>13 It wouldn't be the first time.</p> <p>14 But it just seems to me that the holdup is</p> <p>15 the unknown of what the Department will do and when</p> <p>16 they will do it.</p> <p>17 THE CHAIR: Commissioner Chavez --</p> <p>18 sorry -- Director Chavez.</p> <p>19 DIRECTOR CORINA CHAVEZ: Sorry. I had to</p> <p>20 step outside. It got a little loud in there. So --</p> <p>21 so I wasn't -- nobody was trying to insinuate that</p> <p>22 this Commission wasn't working in good faith and</p> <p>23 wanting to move this forward.</p> <p>24 And, again, I will reiterate, I feel like</p> <p>25 there has been some meetings that have brought us</p>	<p style="text-align: right;">172</p> <p>1 I think that we could add it to the 21st. And</p> <p>2 that's without talking to anyone. That's what I</p> <p>3 would like to aim for, if the Commission feels like</p> <p>4 that could happen.</p> <p>5 MS. JULIA BARNES: But if they vote today,</p> <p>6 why does the Commission need to take any action on</p> <p>7 the 21st?</p> <p>8 DIRECTOR CORINA CHAVEZ: Because there's</p> <p>9 probably going to be some changes to the draft. Not</p> <p>10 substantive, I don't think, but people need a chance</p> <p>11 to take a look at it. Just like you do, Ms. Barnes,</p> <p>12 people at the PED need to take a look at it,</p> <p>13 because, ultimately, this rule is being promulgated</p> <p>14 by the Secretary.</p> <p>15 THE CHAIR: With all of this information</p> <p>16 as we move forward through a -- a motion, can I</p> <p>17 discuss this right now? Or do we have to have a</p> <p>18 motion first? Or can I talk through what -- how I'm</p> <p>19 thinking through this?</p> <p>20 Okay. So it sounds like we could have --</p> <p>21 we could do a full motion to approve as is, like we</p> <p>22 did the last time, which I probably would say</p> <p>23 probably not at this stage. But can we make a</p> <p>24 motion to approve the rule, but also give latitude</p> <p>25 to the -- to the subcommittee to review and make any</p>
<p style="text-align: right;">171</p> <p>1 closer to common ground.</p> <p>2 And the other thing I wanted to say was in</p> <p>3 response to what Ms. Matthews said, and that is that</p> <p>4 I originally thought that this meeting was going to</p> <p>5 be the meeting she just described where there was a</p> <p>6 final vetted all the way around, that the PEC would</p> <p>7 approve. And it shifted, and it ended up taking</p> <p>8 longer.</p> <p>9 So I think that's a good question. And my</p> <p>10 expectation is I think that we could add it to the</p> <p>11 agenda on the 21st. That meeting agenda has not yet</p> <p>12 gone out. So that's what I would suggest.</p> <p>13 MS. JULIA BARNES: The question, though,</p> <p>14 is when was PED going to make a final decision.</p> <p>15 DIRECTOR CORINA CHAVEZ: Right. So PED</p> <p>16 needs to have a final version from the PEC. So if</p> <p>17 they vote today --</p> <p>18 MS. JULIA BARNES: Sure. So if they vote</p> <p>19 today -- if they vote today, when can the PED --</p> <p>20 DIRECTOR CORINA CHAVEZ: I think there has</p> <p>21 to be some edits made. We've talked about</p> <p>22 definitely a lot of cleanup language, punctuation,</p> <p>23 et cetera. And there were a few things that were</p> <p>24 changed, not many. But I do think that there does</p> <p>25 need to be a review by Policy and the Secretary, and</p>	<p style="text-align: right;">173</p> <p>1 unsubstantial edits and then send that to the --</p> <p>2 does that seem like how we're feeling?</p> <p>3 Okay. So I think if we're ready we can</p> <p>4 entertain a rule (verbatim).</p> <p>5 Vice Chair Burt, if you're still</p> <p>6 interested in doing that -- or, sorry, entertain a</p> <p>7 motion -- I'll give you the chance to do that.</p> <p>8 COMMISSIONER BURT: That's exactly what my</p> <p>9 intent is. So, Julia, make sure I do it right.</p> <p>10 But I will move that the PEC approve the</p> <p>11 final draft of the rule and submit to PED the --</p> <p>12 with the changes discussed today.</p> <p>13 Also I will move that the PEC -- of</p> <p>14 course, Amazon had to come right now. Okay. Sorry.</p> <p>15 Okay. And I also move that the PEC</p> <p>16 authorize the PEC subcommittee for the rule to</p> <p>17 review any changes that are made in the future and</p> <p>18 approve any non-substantive changes and finalize the</p> <p>19 draft for posting.</p> <p>20 COMMISSIONER GIPSON: Second.</p> <p>21 THE CHAIR: Okay. Let's move into</p> <p>22 discussion of the motion.</p> <p>23 Any discussion from the Commissioners at</p> <p>24 this time?</p> <p>25 Commissioner Manis.</p>

<p style="text-align: right;">174</p> <p>1 COMMISSIONER MANIS: Can Cindy just repeat 2 the motion? I had a phone call, so I was wondering 3 if she could just repeat it so I'd be 100 percent 4 clear. 5 (The record was read as requested.) 6 COMMISSIONER MANIS: Thank you. 7 THE CHAIR: Any discussion? Vice Chair 8 Burt, I see your hand up. 9 COMMISSIONER BURT: Yeah. The only -- I, 10 actually -- I'm glad we're going to move in this 11 direction, because I think it'll help us go a little 12 bit faster. I'm really happy that with the -- I 13 feel like the PEC has been on the same route and 14 same page for a while on this, so I think it's going 15 to be simple to allow the subcommittee to know if 16 something is substantive or not. So I feel really 17 good about that process. 18 I am frustrated a little bit that the -- 19 that Aaron or Jeff weren't here, one of them, to be 20 here today, or someone that they designate to be 21 here today, because I feel like we could have had a 22 lot of this back and forth with them and, like, 23 resolved a lot of these things. Like, we could have 24 just done it. 25 And so it's -- I just want to express I</p>	<p style="text-align: right;">176</p> <p>1 wish we could have done that. I definitely am going 2 to support moving forward in this path and having 3 the subcommittee possibly get together a little more 4 frequently helps us move a little bit faster, too. 5 THE CHAIR: Thank you, Vice Chair. 6 Commissioner Gipson. Then Commissioner Carrillo. 7 COMMISSIONER GIPSON: I'm certainly going 8 to support this. I'm going to ditto the 9 frustration. But it's not abnormal frustration 10 unfortunately for me when I'm dealing with PED. And 11 that's the really sad part. 12 I think we've been more than 13 collaborative. I think we've, you know, shown that 14 we've made just about every change that PED has 15 requested at this point in time. And I'll share 16 that at this point in time, if we keep meeting on 17 this, for me, personally, it's becoming elder abuse. 18 So I'm just putting it out there. 19 THE CHAIR: Thank you, Commissioner. 20 Commissioner Carrillo. 21 COMMISSIONER CARRILLO: I would agree -- I 22 agree with -- with Patty and Bekka. And this is 23 four and a half hours we will never get back. And 24 it probably only could have been, like, two hours or 25 an hour and a half, if someone from the Counsel's</p>
<p style="text-align: right;">175</p> <p>1 asked yesterday if someone could come, and the 2 response I got was that they've already had 3 conversations, and they've done their time, and 4 they're not coming. 5 So I'm really frustrated by that. And I 6 just want to -- I mean, if they're busy, that's not 7 what I was told yesterday. And it's just really 8 frustrating that someone from the legal team -- it 9 didn't even have to -- it could have been anybody to 10 just come and talk through these things with us so 11 we don't have to do this back and forth again. 12 And I just hope that that's something that 13 we can work on in the future when it comes to these 14 collaborations with what we're working on. 15 And anyone in PED that we're doing it 16 with, they really should come and help us make these 17 meetings beneficial, so that it's not wasting their 18 time and wasting our time. Because this is -- like, 19 to have the circular -- you know, okay, now, back to 20 them. Now we all have to come meet again, and then 21 it's back to us and then back to them. 22 It's just really -- it's crazy. So I am 23 frustrated by that. I think we actually could have 24 gone through some of these things that now PED has 25 to review. We could have just done it today. I</p>	<p style="text-align: right;">177</p> <p>1 Office for PED would have been present. 2 So we'll just see what they come back with 3 and where their little red pencil lands. And I'm 4 going to support this, of course. 5 THE CHAIR: Seeing no other hands raised, 6 Vice Chair Burt, can we take a roll call, please? 7 COMMISSIONER BURT: Yup. All right. 8 Commissioner Beck. 9 THE CHAIR: He's not present right now. 10 COMMISSIONER BURT: Okay. 11 Commissioner Manis. 12 COMMISSIONER MANIS: Yes. 13 COMMISSIONER BURT: Commissioner Gipson. 14 COMMISSIONER GIPSON: Yes. 15 COMMISSIONER BURT: Commissioner 16 Clahchischilliage. 17 COMMISSIONER CLAHCHISCHILLIAGE: Yes, I 18 support. 19 COMMISSIONER BURT: Commissioner Ingham. 20 COMMISSIONER INGHAM: Reluctantly, yes. 21 COMMISSIONER BURT: Vice Chair Burt, yes. 22 Chair Brauer. 23 THE CHAIR: Yes. 24 COMMISSIONER BURT: And Commissioner 25 Carrillo.</p>

178	<p>1 COMMISSIONER CARRILLO: Yes.</p> <p>2 COMMISSIONER BURT: All right. That</p> <p>3 passes, seven to zero.</p> <p>4 THE CHAIR: Great. Thank you. All right.</p> <p>5 And just so I'm clear before we move on to Item</p> <p>6 No. 6, we did share that we are -- we're not going</p> <p>7 to be discussing the contract at this stage? Is</p> <p>8 that right?</p> <p>9 All right. Let's move on to -- Vice</p> <p>10 Chair, go ahead.</p> <p>11 COMMISSIONER BURT: Can I just have</p> <p>12 clarification how that affects contract negotiations</p> <p>13 next week? Like, just for clarification, we're</p> <p>14 still going to meet, discuss the school-specific</p> <p>15 negotiation items?</p> <p>16 MS. JULIA BARNES: That's my</p> <p>17 understanding. We haven't -- what we did is the</p> <p>18 contract has a Section 3 that has the provisions for</p> <p>19 the school. And you've already determined the</p> <p>20 performance framework that you're going to use.</p> <p>21 So the schools are -- have prepped those</p> <p>22 school-specific documents, which do not impact the</p> <p>23 rule or the -- kind of the rest of the contract that</p> <p>24 goes around it.</p> <p>25 And I have not heard from any school that</p>	180	<p>1 contract, and we can do that through a special</p> <p>2 meeting, if needed, probably put it on the agenda as</p> <p>3 well, in case we can handle it during the meeting.</p> <p>4 So that all can happen as soon as we get</p> <p>5 back what we're going to get back from PED.</p> <p>6 And I think that what we've been doing</p> <p>7 right now is step by step. And so that's the next</p> <p>8 step.</p> <p>9 COMMISSIONER BURT: Will the schools</p> <p>10 ever -- will the schools need to meet with us again</p> <p>11 after we do their contract negotiation? Or will all</p> <p>12 of that kind of process happen with e-mails and</p> <p>13 phone calls?</p> <p>14 MS. JULIA BARNES: I'm guessing the</p> <p>15 second. I'm guessing the second, but I don't know.</p> <p>16 I don't know.</p> <p>17 COMMISSIONER BURT: This is just for</p> <p>18 clarity for us and for them and for --</p> <p>19 MS. PATRICIA MATTHEWS: Commissioner</p> <p>20 Brauer? Could I just -- the only thing I could</p> <p>21 anticipate, which we've never had to do before,</p> <p>22 because of the newness of the contract and the</p> <p>23 rule -- and I don't anticipate my clients. But we</p> <p>24 only have three. My firm has only three of the</p> <p>25 renewing schools. But you might want to -- I don't</p>
179	<p>1 they wanted to change the timeline, that, in my</p> <p>2 view, it moves those forward. And all of that</p> <p>3 information was provided last week to all the school</p> <p>4 negotiating teams and all -- and the subcommittee</p> <p>5 that's negotiating. So we're ready to go.</p> <p>6 COMMISSIONER BURT: And how -- how -- what</p> <p>7 does the process look like for after we -- you know,</p> <p>8 we go through the negotiations next week? The rule</p> <p>9 can be back on the agenda, possibly next Friday. It</p> <p>10 gets posted the week after that.</p> <p>11 What does that look like for the schools</p> <p>12 with signing a final contract?</p> <p>13 MS. JULIA BARNES: So, first, I don't --</p> <p>14 I'm not sure, given your motion, Chair Burt -- Vice</p> <p>15 Chair Burt -- that you have need to vote again.</p> <p>16 COMMISSIONER BURT: Okay.</p> <p>17 MS. JULIA BARNES: So you're going to</p> <p>18 approve it. If you get non-technical changes back,</p> <p>19 the subcommittee can decide -- you might put it on</p> <p>20 the agenda. But you may not need to do it.</p> <p>21 Then I think when that document is ready</p> <p>22 to be posted for the 30 days, at that point, I think</p> <p>23 that we are ready to assume that a version</p> <p>24 substantially similar to that will be approved. So</p> <p>25 we can move forward with finalizing the draft of the</p>	181	<p>1 know what the other attorneys will say or do with</p> <p>2 regard to the form of the contract, the performance</p> <p>3 framework.</p> <p>4 And so it may be that a subsequent</p> <p>5 negotiation of the contract itself, I don't --</p> <p>6 that's the only thing I can anticipate. And, again,</p> <p>7 it will depend on what the Department does with the</p> <p>8 rule.</p> <p>9 MS. JULIA BARNES: We're also still in the</p> <p>10 middle of a motion, Commissioners.</p> <p>11 THE CHAIR: Commissioner Ingham?</p> <p>12 COMMISSIONER INGHAM: It might be</p> <p>13 inappropriate. I wanted to find out -- was I -- I</p> <p>14 was under the understanding that I needed to be</p> <p>15 there Tuesday and Wednesday next week. Is that</p> <p>16 true?</p> <p>17 Okay. Thank you. That's all I need to</p> <p>18 know.</p> <p>19 COMMISSIONER BURT: Yeah. So we're</p> <p>20 still -- we're still going to be doing them as</p> <p>21 scheduled.</p> <p>22 THE CHAIR: All right. Let's move on to</p> <p>23 Item No. 6, adjournment.</p> <p>24 Can I get a motion?</p> <p>25 COMMISSIONER BURT: Move to adjourn.</p>

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1 THE CHAIR: I second.
 2 Do you want to do a roll call, please?
 3 COMMISSIONER BURT: Commissioner Ingham.
 4 THE CHAIR: I'm sorry. You're on mute,
 5 sir.
 6 COMMISSIONER INGHAM: Sorry. Yes.
 7 COMMISSIONER BURT: Commissioner
 8 Clahchischilliage.
 9 COMMISSIONER CLAHCHISCHILLIAGE: Yes.
 10 COMMISSIONER BURT: Commissioner Gipson.
 11 COMMISSIONER GIPSON: Yes.
 12 COMMISSIONER BURT: Vice Chair Burt, yes.
 13 Commissioner Manis.
 14 COMMISSIONER MANIS: Yes.
 15 COMMISSIONER BURT: Chair Brauer.
 16 THE CHAIR: Yes.
 17 COMMISSIONER BURT: And Commissioner
 18 Carrillo.
 19 COMMISSIONER CARRILLO: Yes.
 20 COMMISSIONER BURT: That passes
 21 unanimously.
 22 THE CHAIR: Thank you, Commissioners, for
 23 all the work that you've put into this. Thank you
 24 PED, Charter School Division staff, and Cindy for
 25 all the work that you've put into this as well.

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1 Wishing you all the best for the rest of the day.
 2 We're adjourned.
 3 (Proceedings adjourned at 1:31 p.m.)
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 10 certify that the foregoing pages constitute a true
 11 transcript of proceedings had before the said
 12 NEW MEXICO PUBLIC EDUCATION COMMISSION, held in the
 13 State of New Mexico, in the matter therein stated.
 14 In testimony whereof, I have hereunto set my
 15 hand on April 24, 2023.
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2 STATE OF NEW MEXICO

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14 In testimony whereof, I have hereunto set my
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18 *Cynthia Chapman*

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