

BEFORE THE PUBLIC EDUCATION COMMISSION

STATE OF NEW MEXICO

TRANSCRIPT OF PROCEEDINGS  
OPEN SPECIAL PUBLIC MEETING

May 8, 2023

4:00 p.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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2	<p>1 APPEARANCES</p> <p>2 COMMISSIONERS:</p> <p>3 ALAN BRAUER, Chair</p> <p>4 REBEKKA BURT, Vice Chair</p> <p>5 STEVEN J. CARRILLO, Member</p> <p>6 SHARON CLAHCHISCHILLIAGE, Member</p> <p>7 PATRICIA GIPSON, Member</p> <p>8 STEWART INGHAM, Member</p> <p>9 K.T. MANIS, Member</p> <p>10 PED STAFF:</p> <p>11 CORINA CHAVEZ Director</p> <p>12 Charter School/Options for</p> <p>13 Parents and Families Division</p> <p>14 BRIGETTE RUSSELL, Deputy Director</p> <p>15 Charter School/Options for</p> <p>16 Parents and Families Division</p> <p>17 LUCY VALENZUELA, Technical Assistance and</p> <p>18 Training Specialist</p> <p>19 Charter School/Options for Parents</p> <p>20 and Families Division</p> <p>21 MISSY BROWN Technical Assistance and Support and</p> <p>22 Training Administrator</p> <p>23 Charter School/Options for</p> <p>24 Parents and Families Division</p> <p>25 SHARYN PEREA, Liaison to PEC</p> <p>KIMBERLY GONZALES, Data and Financial Analyst</p> <p>Administrator</p> <p>Charter School/Options for</p> <p>Parents and Families Division</p> <p>COUNSEL TO THE PEC:</p> <p>JULIA HOSFORD BARNES, ESQ.</p> <p>Barnes Mediation and Law, PC</p> <p>200 W. DeVargas Street, Suite 7</p> <p>Santa Fe, New Mexico 87501</p>	4
3	<p>1 INDEX TO PROCEEDINGS</p> <p>2 PAGE</p> <p>3 1 Call to Order, Roll Call, 4</p> <p>4 Pledge of Allegiance,</p> <p>5 Salute to the New Mexico Flag 5</p> <p>6 2 Approval of Agenda 5</p> <p>7 3 Open Forum 7</p> <p>8 4 Consent Agenda Approval of Minutes 10</p> <p>9 and Transcripts</p> <p>10 5 Discussion and Possible Action on 11</p> <p>11 PEC Template for School Contracts</p> <p>12 6 Adjourn 51</p> <p>13 REPORTER'S CERTIFICATE 53</p> <p>14 ATTACHMENTS:</p> <p>15 1 List of Meeting Attendees</p>	5
2	<p>1 THE CHAIR: All right. Commissioner</p> <p>2 Clahchischilliage, do you hear us okay?</p> <p>3 COMMISSIONER CLAHCHISCHILLIAGE: Yes, I</p> <p>4 hear you.</p> <p>5 THE CHAIR: Wonderful. You're here in</p> <p>6 video, too. That's wonderful. Thank you for that.</p> <p>7 Well, it is 4:26 p.m. on Monday, May the</p> <p>8 8th, 2023. I'm going to call this meeting to</p> <p>9 order -- the special meeting to order, that is.</p> <p>10 Vice Chair Burt, are you okay with doing</p> <p>11 the roll call?</p> <p>12 COMMISSIONER BURT: (Indicates.)</p> <p>13 Secretary Armijo, not present.</p> <p>14 Commissioner Beck, not present.</p> <p>15 Chair Brauer.</p> <p>16 THE CHAIR: Present.</p> <p>17 COMMISSIONER BURT: Vice Chair Burt is</p> <p>18 here.</p> <p>19 Commissioner Clahchischilliage.</p> <p>20 COMMISSIONER CLAHCHISCHILLIAGE: Here.</p> <p>21 COMMISSIONER BURT: Commissioner Ingham is</p> <p>22 not present.</p> <p>23 Commissioner Gipson.</p> <p>24 COMMISSIONER GIPSON: Here.</p> <p>25 COMMISSIONER BURT: Commissioner Taylor is</p>	4
3	<p>1 not present.</p> <p>2 Commissioner Manis.</p> <p>3 COMMISSIONER MANIS: I'm here.</p> <p>4 COMMISSIONER BURT: And Commissioner</p> <p>5 Carrillo.</p> <p>6 COMMISSIONER CARRILLO: Here.</p> <p>7 COMMISSIONER BURT: All right. We have a</p> <p>8 quorum of six.</p> <p>9 THE CHAIR: Thank you, Vice Chair. Let's</p> <p>10 move into the Pledge of Allegiance.</p> <p>11 In lieu of Commissioner Taylor,</p> <p>12 Commissioner Manis, can you lead us into the Pledge,</p> <p>13 please?</p> <p>14 COMMISSIONER MANIS: I'm sorry. I'm in an</p> <p>15 airport right now, or I would.</p> <p>16 THE CHAIR: Commissioner Carrillo, can you</p> <p>17 go ahead and lead us, please?</p> <p>18 COMMISSIONER CARRILLO: Are you</p> <p>19 embarrassed, K.T? Are you -- that would be funny if</p> <p>20 we were all in an airport and saw somebody out of</p> <p>21 the blue standing and saying the Pledge.</p> <p>22 (Pledge of Allegiance conducted.)</p> <p>23 (Salute to the New Mexico Flag conducted.)</p> <p>24 THE CHAIR: Thank you.</p> <p>25 Move into the approval of the agenda.</p>	5

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1 COMMISSIONER BURT: Move to approve the  
 2 agenda.  
 3 COMMISSIONER CARRILLO: Second.  
 4 THE CHAIR: Thank you. Let's do a roll  
 5 call, please, Vice Chair.  
 6 COMMISSIONER BURT: Chair Brauer.  
 7 THE CHAIR: Yes.  
 8 COMMISSIONER BURT: Commissioner Carrillo.  
 9 COMMISSIONER CARRILLO: Yes.  
 10 COMMISSIONER BURT: Commissioner Burt,  
 11 yes.  
 12 Commissioner Manis.  
 13 COMMISSIONER MANIS: Yes.  
 14 COMMISSIONER BURT: Commissioner  
 15 Clahchischilliage. I think she dropped off.  
 16 Commissioner Gipson.  
 17 COMMISSIONER GIPSON: Yes.  
 18 MS. MISSY BROWN: I'm promoting  
 19 Commissioner Clahchischilliage again.  
 20 COMMISSIONER BURT: All right.  
 21 Commissioner Clahchischilliage, we're doing a  
 22 roll-call vote on approving the agenda. So  
 23 Commissioner Clahchischilliage.  
 24 COMMISSIONER CLAHCHISCHILLIAGE: Yes.  
 25 COMMISSIONER BURT: Thank you. That

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1 passes, six-zero.  
 2 THE CHAIR: Great. Thank you. Let's move  
 3 on into the approval -- or sorry -- the Open Forum.  
 4 Missy, I think you said we had one person;  
 5 is that right?  
 6 MS. MISSY BROWN: We have one person who  
 7 signed up for public comment, Dr. Michael Kaplan.  
 8 I'm promoting him to the panel.  
 9 THE CHAIR: Great. Dr. Kaplan, you'll  
 10 have three minutes, sir.  
 11 FROM THE PUBLIC: Okay. Can you guys hear  
 12 me?  
 13 THE CHAIR: We can.  
 14 FROM THE PUBLIC: Great. I just have two  
 15 comments. One is about the new conflict of interest  
 16 form. I have concerns about this new form. You  
 17 know the current procurement code, the statute, and  
 18 the Code of Federal Regulations already exist in  
 19 regards to conflict of interest that's required of  
 20 all school employees and governing council and  
 21 school board members.  
 22 You know, we already sign a yearly  
 23 conflict of interest form as a governance council  
 24 member, and our employees already sign off when they  
 25 get the handbook.

8

1 So my concern is that why do we need  
 2 another form that's a lot more restrictive? And,  
 3 also, if this form is being done for charter  
 4 schools, why isn't it being required of all LEAs and  
 5 all school board members and all employees and all  
 6 the public schools? Why just pick on the charter  
 7 schools, one more more restrictive duplication of a  
 8 form that we already are required to have as part of  
 9 our policies, anyway? So that's the first comment.  
 10 The second one is on the performance  
 11 framework. And this is under the Academic Area 1.  
 12 I have some serious concerns about -- you know the  
 13 performance contract with the charter school allows  
 14 for a charter school to use alternative assessments  
 15 if approved by the PEC or the PED. But yet if they  
 16 don't have an 85 percent participation of certain  
 17 subgroups, then it falls to the accountability  
 18 system.  
 19 Well, what makes you think that 85 percent  
 20 of a particular group are going to be able to  
 21 participate in the State's accountability?  
 22 And my other concern is why have a -- why  
 23 have the charter schools do a charter contract in  
 24 which they specify what alternative assessments are  
 25 going to be used to show academic performance if

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1 it's always going to default to the accountability  
 2 system.  
 3 It's a duplication of services, and, you  
 4 know, then the -- what's the purpose of having a  
 5 charter school -- of having a charter contract and a  
 6 performance framework for charter schools if it  
 7 doesn't matter, because there's always the  
 8 possibility that somebody will be -- will be  
 9 required -- a charter school will be required to go  
 10 back to the account- -- to the statewide  
 11 accountability system and not really fulfill the  
 12 requirements of their charter contract?  
 13 So I have some serious concerns about if  
 14 you're going to approve the use of alternative  
 15 assessments for charter schools because of their  
 16 particular population, then they should be allowed  
 17 to use the alternative and not be penalized by --  
 18 because some group of students doesn't meet the  
 19 85 percent requirement.  
 20 Lower the requirement, then, to show that  
 21 the students are being successful on their charter  
 22 contract.  
 23 Those are my comments in regards to those  
 24 two documents that I know the PEC is considering.  
 25 Thank you.

10	<p>1 THE CHAIR: Thank you, Dr. Kaplan.  2 And, Missy, that was the only person?  3 MS. MISSY BROWN: That is correct, Chair  4 Brauer.  5 THE CHAIR: Wonderful. Thank you so much.  6 Let's move into the Consent Agenda, approval of --  7 apologies -- yeah, let's move into the Consent  8 Agenda.  9 COMMISSIONER BURT: Move to approve the  10 Consent Agenda.  11 COMMISSIONER GIPSON: Second.  12 THE CHAIR: Take a roll-call vote, please.  13 COMMISSIONER BURT: Commissioner Gipson.  14 COMMISSIONER GIPSON: Yes.  15 COMMISSIONER BURT: Commissioner  16 Clahchischilliage.  17 COMMISSIONER CLAHCHISCHILLIAGE: Yes.  18 COMMISSIONER BURT: Commissioner Manis.  19 COMMISSIONER MANIS: Yes.  20 COMMISSIONER BURT: Commissioner Brauer.  21 THE CHAIR: Yes.  22 COMMISSIONER BURT: Commissioner Carrillo.  23 COMMISSIONER CARRILLO: Yes.  24 COMMISSIONER BURT: And Commissioner Burt,  25 yes.</p>	12	<p>1 ones, and I've made them. And there are a few  2 things that I want to discuss with you. And then I  3 think -- I don't know -- unless someone has a  4 different suggestion, then I think we can open it up  5 for comment.  6 I just want to go through the two comments  7 from the Matthews Fox law firm. Unless -- I'm also  8 happy to walk you through the contract. Is there a  9 preference?  10 COMMISSIONER CARRILLO: Can you share  11 screen?  12 MS. BARNES: I can. Sure.  13 COMMISSIONER CARRILLO: That would be  14 great.  15 MS. BARNES: And then I'm kind of sad to  16 tell you, Commissioner Carrillo, that if we -- I  17 want to look at this one, which is in Word, but it  18 doesn't have all the numbers on the side because  19 they disappear. The PDF has all of the numbers, so  20 I did a PDF just for you.  21 COMMISSIONER CARRILLO: Oh, this is fine.  22 Thank you.  23 MS. BARNES: But since we're going to work  24 on the document and I'm interested in getting it  25 finalized today if we can, I will show you this one.</p>
11	<p>1 It passes, six-zero.  2 THE CHAIR: Wonderful. Thank you so much.  3 Let's move on to No. 5, Discussion and Possible  4 Action on PEC Template for School Contracts.  5 MS. BARNES: Want me to present that?  6 THE CHAIR: Yes, Ms. Barnes. Thank you.  7 MS. BARNES: Thank you. So last Thursday,  8 I believe, the PED sent over to the State Registry a  9 draft rule. I haven't seen it posted. However,  10 they're going to have to post it once the Notice of  11 Intent to Promulgate Rule is there.  12 So we have made a decision that we would  13 move on this contract template as soon as we knew  14 what was proposed in the draft rule.  15 Last Thursday, I posted a document that I  16 sent out to all of you-all, but also to the full  17 group that had worked on the rule, which includes  18 all of the charter school attorneys who participated  19 in looking at the contract and the rule previously,  20 all the PED attorneys, and CSD staff.  21 And then over the weekend, we received a  22 final group of changes from the Matthews Fox law  23 firm that caused me to work through that today and  24 upload that document today.  25 Many of their technical changes were good</p>	13	<p>1 This is Document 5a. And special thanks  2 to Lucy, who jumped through some hoops today to get  3 this special draft, and, again, thanks to the  4 Matthews Fox law firm for putting in this work. I  5 will tell you that Patty Matthews has told us that  6 she is unable to attend due to a family issue today  7 which is, in part, why she got the document to us  8 early, but it's also why she's not here now.  9 Is there a preference to -- just to go to  10 the two issues that I want to discuss? Or would you  11 like me to walk you through?  12 Okay. Bekka -- Chair Burt -- is saying  13 just to go to them.  14 So the -- a lot of the technical changes  15 were made as we go throughout. I went and tried to  16 double-check that we used the terms that we define.  17 We also used the rule.  18 The -- one of the comments -- and I will  19 just briefly talk about it here so that everybody  20 understands it.  21 There are three exhibits to the contract,  22 a lot fewer than before, which is the -- the  23 performance framework, a letter from you-all  24 authorizing Boards of Finance and discretionary  25 waivers, which are required. The Commission rule in</p>

<p style="text-align: right;">14</p> <p>1 draft is incorporated only until it is codified.  2 Then I actually was able to speak with  3 Dr. Russell today. There are these -- and got  4 comments from the Matthews Fox law firm on this one,  5 which is that CSD and the schools are creating these  6 monitoring documents. They will be attached to the  7 contract basically out of convenience. But CSD and  8 the schools can change them as long as it's  9 consistent with the charter contract. And we're  10 going to identify which ones are there.  11 Document No. 2 is if the school does a  12 school-specific assessment replacing a PED  13 assessment.  14 And the last one is if there is a  15 condition, that compliance document is also  16 attached.  17 The first thing that I wanted to talk to  18 you about is the conflict-of-interest form. We just  19 got some comments on that.  20 The Matthews Fox law firm made some  21 different changes than I did. I accepted some of  22 their -- their comments, which is that -- and this  23 will actually replace the foundation membership  24 assurance. And what we're looking for is no  25 conflict of interest.</p>	<p style="text-align: right;">16</p> <p>1 that there's no conflict of interest.  2 Again, we're going to give heightened  3 scrutiny if money is just turned over to the  4 foundation, lesser scrutiny if it's only a building,  5 and almost no scrutiny at all if they're just  6 raising their own money.  7 So this is my compromise on this one.  8 And we are approving a form, I think,  9 actually, that would address some of what Dr. Kaplan  10 just mentioned. And I think, given the concerns  11 we've had in the past with foundations and people  12 being too close, that an assurance is not out of --  13 it's not too strong a thing to request.  14 Anyone want to discuss that any further?  15 I did just want to point out that the  16 Matthews Fox law firm wanted something different,  17 actually struck this. I don't want to strike it. I  18 do think it can be reasonable, and I do think we can  19 make sure it's not too duplicative.  20 I -- Chair Brauer, I can't see if somebody  21 raises their hand. So I'm going to let you  22 interrupt me if somebody does.  23 THE CHAIR: I will interrupt. But I'm not  24 seeing anybody right now, Julia.  25 MS. BARNES: Okay. Thank you.</p>
<p style="text-align: right;">15</p> <p>1 I think that the Matthews Fox law firm  2 wanted it just to be foundation members. But we  3 have third-party contractors, and some of those are  4 very close relationships. And so we have limited or  5 taken out any volunteers. And it is a staff person  6 or board member at the school who also serves on the  7 board, receives a benefit from, is employed or  8 contracts with the foundation or a third-party  9 contractor.  10 We -- I don't think -- I guess I'm still  11 kind of sticking to what we're looking to do, which  12 is to do an assurance document, that there's not a  13 conflict of interest. I think that if the school is  14 already receiving those, it would be fairly easy to  15 do an assurance document, and that would be  16 presented at the next meeting, again, in the working  17 session.  18 So I had accepted some of their changes,  19 not all of them. And the biggest one is that was  20 only linked to foundations. But I think that there  21 are some third-party contractors as well.  22 This would also give you discretion, if  23 something was not a required third-party contractor  24 but a very close relationship, I think in  25 negotiation with the school, you could also confirm</p>	<p style="text-align: right;">17</p> <p>1 One thing that I did in this section --  2 COMMISSIONER CARRILLO: I have a question.  3 For Ms. Matthews, are any of these things for her --  4 these concerns deal-breakers? Because the last  5 thing we want to do is end up with a contract that  6 all of a sudden she and her schools are not going to  7 approve.  8 MS. BARNES: Well, I think that's a good  9 question. I can give you what I guess.  10 My guess is on this one, we can work  11 through an assurance form that will be okay. They  12 do want to see it. Right now, they are providing  13 their own. But what we've been -- so I don't think  14 this one is a deal-breaker. I think the one coming  15 up possibly -- possibly is.  16 So this Section 3, there were a couple of  17 little changes made here. Primarily -- and,  18 actually, Commissioner Gipson made one of these  19 suggestions. This is where we're putting all of the  20 information that is school-specific: Contract term;  21 talking about the scoring sheets. I'm actually  22 going to call it monitoring documents.  23 So we're trying to put everything in this  24 section. And there were a few things that were  25 referenced later that we have pulled into here. Let</p>

18	<p>1 me get down here. I'm sorry to be scrolling.</p> <p>2 The two that I brought up were tribal</p> <p>3 consultation, so that they need to check this box</p> <p>4 and make sure that they know that they're talking to</p> <p>5 the educational liaison.</p> <p>6 So it looks to me like there's two times</p> <p>7 that a school could have a requirement is if they</p> <p>8 were on tribal land or had a sufficient number of</p> <p>9 students at their school.</p> <p>10 So we've got it -- I've got three options.</p> <p>11 Not applicable if it's required by law or if they</p> <p>12 are on tribal land, and that we identify which</p> <p>13 entity they are going to consult with, and that it</p> <p>14 needs to be this educational liaison. Because at</p> <p>15 least twice that's been kind of confusing for</p> <p>16 schools, so we would clarify that.</p> <p>17 The other was --</p> <p>18 COMMISSIONER CARRILLO: Hold on. Sorry.</p> <p>19 So consult with -- if you need an educational</p> <p>20 liaison in the sense -- in the sentence, "consult</p> <p>21 with," are you wanting to name a person or a</p> <p>22 position?</p> <p>23 MS. BARNES: No, I didn't want a position;</p> <p>24 so...</p> <p>25 COMMISSIONER CARRILLO: So they could put</p>	20	<p>1 it's the schools' responsibility to provide that</p> <p>2 information, not -- not CSD's job to go, you know,</p> <p>3 track it for them.</p> <p>4 This is the big one.</p> <p>5 COMMISSIONER CLAHCHISCHILLIAGE: Julia, I</p> <p>6 hate to interrupt.</p> <p>7 MS. BARNES: Yes.</p> <p>8 COMMISSIONER CLAHCHISCHILLIAGE: Back to</p> <p>9 the consultation with tribes.</p> <p>10 MS. BARNES: Yes.</p> <p>11 COMMISSIONER CLAHCHISCHILLIAGE: Okay.</p> <p>12 "The school is required to consult with..." And</p> <p>13 then the tribal entity would be put there. Is that</p> <p>14 what you're saying?</p> <p>15 MS. BARNES: Yes, that is what I'm saying.</p> <p>16 COMMISSIONER CLAHCHISCHILLIAGE: Okay. I</p> <p>17 think we need to do a slash and whoever that entity</p> <p>18 has to be, because, currently, we've had a lot of</p> <p>19 problems. Like, say, with the Navajo Nation, who</p> <p>20 our -- the New Mexico -- Be Well New Mexico has been</p> <p>21 trying to get a response from the Navajo Nation.</p> <p>22 And they sent it to the President's Office.</p> <p>23 And the language is similar to this, where</p> <p>24 it says "consult with the Navajo Nation." However,</p> <p>25 it needs to be a little more specific than that,</p>
19	<p>1 in like whatever their -- I don't know -- their</p> <p>2 tribal consultant. It almost seems redundant.</p> <p>3 MS. BARNES: Well, this, I wanted "is</p> <p>4 located on the land of" the Navajo Nation or</p> <p>5 Ohkay Owingeh, whatever it is, and that they need to</p> <p>6 consult with the educational liaison for that</p> <p>7 entity. If there's a clearer way to say it?</p> <p>8 COMMISSIONER CARRILLO: No, no, no. The</p> <p>9 next box. "The school is required to consult with"</p> <p>10 what pursuant to -- consult with the educational</p> <p>11 liaison? So are you wanting them to name a person</p> <p>12 or a position?</p> <p>13 MS. BARNES: No. I'm wanting them to name</p> <p>14 the tribal entity.</p> <p>15 COMMISSIONER CARRILLO: So should you put</p> <p>16 the -- I see what you're doing now. Great.</p> <p>17 MS. BARNES: I'll just put that and do</p> <p>18 that. Thank you. and I know that CSD reaches out</p> <p>19 and is talking to the various schools. But I think</p> <p>20 we wanted to just ensure that this educational</p> <p>21 liaison was there.</p> <p>22 And then these documents -- these</p> <p>23 monitoring documents were just referencing them so</p> <p>24 that it's clear that CSD has signed off on how the</p> <p>25 schools are going to provide information. And then</p>	21	<p>1 like it should be Navajo Nation/Health Department.</p> <p>2 And I'm thinking we need to do the same thing here.</p> <p>3 MS. BARNES: Well, we have -- maybe --</p> <p>4 your comment is actually making me think if we want</p> <p>5 to even add more. We have the educational liaison.</p> <p>6 We could put "with the tribal liaison identified</p> <p>7 with the Public -- with the Department." That is</p> <p>8 what we've done in the past is gone and whoever</p> <p>9 they've identified at the Department, at PED, is who</p> <p>10 we've at least started with.</p> <p>11 We could say, "with the educational</p> <p>12 liaison" -- probably should -- "identified with the</p> <p>13 Department." Would that be more specific?</p> <p>14 COMMISSIONER CLAHCHISCHILLIAGE: Like,</p> <p>15 would it be, like, the tribal liaison/PED? Is that</p> <p>16 the way it would be?</p> <p>17 MS. BARNES: Well, Department is the PED.</p> <p>18 So we could do that. That's probably -- that's a</p> <p>19 very good change.</p> <p>20 COMMISSIONER CLAHCHISCHILLIAGE: The</p> <p>21 reason I'm saying this is because, see, like on</p> <p>22 Navajo, the education department doesn't deal with</p> <p>23 public education. They're mainly BIA, contract</p> <p>24 schools and all. So the paperwork that we would</p> <p>25 need in response to our request would probably be</p>

1 late or lost if we're not a little more specific  
2 than this.

3 And I'm saying this for Navajo. Like,  
4 with the pueblos, the size isn't a big issue. With  
5 Navajo, it is, because there's no telling where that  
6 paperwork would go. And, inevitably, it would get  
7 lost.

8 THE CHAIR: Commissioner  
9 Clahchischilliage, I hear what you're saying for  
10 sure. I think that every school still now has to do  
11 tribal consultation. So they should be aware of  
12 what entity they should work with directly.

13 And so I don't think that this would be a  
14 major concern, because every school is supposed to  
15 do tribal consultation each year. So we should be  
16 good on that, and they should be able to identify,  
17 if they are in doubt, what pueblos or the Navajo --  
18 or who at the Navajo Nation they should be  
19 connecting to.

20 COMMISSIONER CLAHCHISCHILLIAGE: Okay. I  
21 was just concerned about that, because we've run  
22 into it in other instances lately.

23 MS. BARNES: Good point. I know that  
24 Commissioner Manis has a deadline. Let me try to  
25 get through this.

1 So because of the draft of the rule, which  
2 has taken out the annual site visit protocol as an  
3 identified PEC procedure, they wanted to put in the  
4 language on the right in the box.

5 I'll try to drop down. There's -- I  
6 wasn't comfortable with that kind of language, so  
7 I've done a different type of language, more of a  
8 process.

9 So the Matthews Fox law firm said that,  
10 "The Commission shall, prior to the first annual  
11 site visit to be conducted pursuant to the terms of  
12 the charter contract, adopt an annual site visit  
13 protocol pursuant to the rule and shall not include  
14 any evaluation criteria beyond that identified in  
15 the rule. The Commission shall direct the  
16 Department to implement the protocol as adopted, and  
17 that the school should not be required to respond to  
18 evaluation criteria, process, or procedures beyond  
19 the scope of the adopted protocol; nor shall the  
20 Commission consider evaluation criteria, processes  
21 and procedures imposed by the Division that exceeds  
22 the scope of the annual site visit protocol."

23 And that, "The Commission can still  
24 consider matters raised by the Division."

25 That raised a lot of questions for me in

1 terms of what that meant, how someone would identify  
2 if something was outside of the scope, and the  
3 Division had done something outside of the scope.

4 So I have dropped theirs in exactly as  
5 they drafted it, and that document is also uploaded.

6 The -- a different option is that I put in  
7 here -- I'm just going to -- under the statute, an  
8 annual site visit is an obligation of the  
9 Commission, not an obligation of the CSD.

10 So we have put in here what the law says,  
11 which is that this Commission will conduct an annual  
12 site visit. This is new language (indicates) trying  
13 to address the Matthews Fox law firm using a  
14 Commission-approved annual site visit protocol  
15 that's adopted pursuant to the procedures and  
16 consistent with the Commission rules.

17 There are two examples in recent times of  
18 the Commission approving annual site visits. One  
19 was Director Chavez presented one on the renewal  
20 site visit protocol. And then there was a much more  
21 contentious one several years ago in which the  
22 Commission made changes to an approved annual site  
23 visit for -- when they felt -- when the schools came  
24 forward and felt like the Division had overstepped  
25 its authority.

1 So what I have put in here -- and I'm not  
2 sure. So I put in here that if -- I put in a  
3 process, that "The school believes that CSD has  
4 conducted an annual visit in a manner that is  
5 outside of the scope of the Commission-approved  
6 annual site visit protocol or in a manner  
7 inconsistent with the rule, the school may provide  
8 written notice of the site visit objections to CSD  
9 with a copy to the Chair within 60 days after it  
10 receives the Phase I Annual Report."

11 It's got to identify the site visit  
12 objection on the Phase 1 Annual Report and request  
13 the action that the school is asking CSD to take to  
14 remedy the objection.

15 "If the issue is not resolved between the  
16 school and the CSD within 15 days, the school may  
17 provide written notice to the Commission of the site  
18 visit objection and ask that the Commission take  
19 such actions to address it at a public meeting of  
20 the Commission, either the next one or at the next  
21 annual re-..." -- when it issue -- when the  
22 Commission issues its next full annual report.

23 And if the Commission is provided with  
24 notice of a site visit objection, "the Commission  
25 shall ensure that the site visit objection is

<p style="text-align: right;">26</p> <p>1 resolved to the satisfaction of the two parties to 2 this contract, the Commission and the school, and, 3 if not, allow the school to document its concerns in 4 the record of performance." 5 I don't know if that is going to be -- if 6 that's going to be acceptable. 7 The language that the Matthews Fox law 8 firm provided -- and, again, it's been a short time 9 frame because of getting the draft rule on Thursday 10 and trying to get this out to the schools now. I 11 don't know if it'll be acceptable. 12 THE CHAIR: Real quick, can we have 13 Commissioner Manis back into the -- into the room, 14 please? And then Vice Chair Burt, and then 15 Commissioner Carrillo. 16 Or if you want, Vice Chair Burt, did you 17 want me to go with Commissioner Carrillo? 18 COMMISSIONER CARRILLO: First? 19 COMMISSIONER BURT: No. 20 THE CHAIR: Okay. Got it. 21 COMMISSIONER BURT: So I would say I would 22 be -- I like having 4.1.1. but no A; it's just all 23 too much. 24 I just think we need to adopt -- have that 25 the Commission -- that there's a Commission-approved</p>	<p style="text-align: right;">28</p> <p>1 is, like, way, way too much for me. This is way too 2 much, yeah. 3 THE CHAIR: Commissioner Carrillo, and 4 then Commissioner Gipson. 5 COMMISSIONER CARRILLO: So I would -- this 6 reminds me of sometimes when we were looking at the 7 CBA with Santa Fe Public Schools when Bobbie 8 Gutierrez was the super. And it was so clear that 9 basically the union wrote the contract. The 10 language was just absolutely outrageous in terms of 11 the limited powers of management; in some cases, no 12 power of management. 13 So I would agree with Bekka, with 14 Commissioner/Vice Chair Grand Poobah Burt. I would 15 agree with her. But the challenge -- I think -- is 16 Ms. Fox wouldn't have put all this stuff in there. 17 And I think what Ms. Fox put in there is 18 horrifically restrictive, and it would be like 19 having the union write the contract. 20 And -- and so, I mean, if we get in a 21 tussle, then I would want Section A, if Ms. Fox 22 insists on having some sort of a procedure. But I 23 would agree with Ms. Burt that simplicity, where 24 necessary, where possible. 25 MS. BARNES: It's Patty Matthews, just --</p>
<p style="text-align: right;">27</p> <p>1 annual site visit protocol that's adopted by PEC. 2 That's it. No more. Like, that's -- for me, that's 3 way too much on either side. 4 And I don't support adding all of A. I 5 would remove all of that. 6 MS. BARNES: So, Vice Chair, just to let 7 you know, that would be a lot more consistent with 8 the original draft with just this language right 9 here being added. 10 COMMISSIONER BURT: Right. Which I think 11 that's -- that's the -- that was what was removed 12 from the rule to be -- that should be addressed in 13 this. 14 But I think this -- this new process of 15 opposing a site visit, I'm not -- I am not okay with 16 at all. Like, I'm not even close to okay with. 17 It's way too -- that's way too much just opinions, 18 allowing to -- like, to me, this is just -- allows 19 for drama that's unnecessary. 20 There's a site visit protocol. I think 21 there's a place in the performance framework in 22 which schools can write their things back and forth 23 to CSD and then to the Commission. 24 That's the appropriate place for that. I 25 don't -- this additional process is way too -- this</p>	<p style="text-align: right;">29</p> <p>1 THE CHAIR: Sorry, Julia. I have really 2 bad news. We no longer have a quorum at this stage. 3 Commissioner Manis just had to get onto his flight. 4 So unless we can find somebody else who can join us 5 at this stage, I think we -- I don't know if we can 6 take an action today. 7 COMMISSIONER CARRILLO: We can't take 8 action, but we can certainly discuss that. 9 MS. BARNES: You can continue in 10 subcommittee. Just take no action. 11 THE CHAIR: Anyone from the PED? Is there 12 any way? Like, everyone else said hard "no"? They 13 weren't able to join this? Lucy or Sharyn? 14 COMMISSIONER CARRILLO: Where the heck is 15 everybody? This has been on the calendar for a 16 while, and it's in the afternoon. 17 MS. BARNES: Chair, let's keep going with 18 discussion. 19 THE CHAIR: Commissioner -- Commissioner 20 Carrillo, were you finished? 21 COMMISSIONER CARRILLO: Yeah. 22 THE CHAIR: Commissioner Gipson. 23 COMMISSIONER GIPSON: Yeah. I mean, I've 24 been in support of having the site visit protocol 25 put into the contract. I'm great with 4.1.1, and</p>



30	<p>1 that's it. And if there is a -- if there's a 2 problem where the school wants to create an impasse, 3 there's a process for that in the contract. But I 4 think we'll be mired in he-said, she-said. I don't 5 like that. And, you know, I don't want to look at 6 what those meetings are going to look like. 7 And, yeah, and I agree with Commissioner 8 Carrillo that I appreciate Ms. Matthews' input and 9 the time that she's put in, but that's very -- that 10 is -- that's way too restrictive what she's asking 11 for. 12 And I understand why she's doing it. And 13 I appreciate it. But I think -- I think we're fine 14 with just 4.1.1, and that's it. 15 THE CHAIR: Thank you, Commissioner 16 Gipson. And I just want to round us out and say I 17 agree with that for sure. I can just see all the 18 heartache and dysfunction that comes out of putting 19 that specific due process paragraph -- I don't know 20 if that's the way I should say that. But I think 21 there's a lot of other processes that we have in 22 place to remedy disagreements that I think this is 23 unneeded, and it just makes it rife for difficulties 24 that are not actually, at the end of the day, going 25 to help.</p>	32	<p>1 bodies prior to it being binding. 2 COMMISSIONER GIPSON: Okay. So now I have 3 a little -- so the governing -- so now I'm a little 4 confused with that. Because what if the Commission 5 decided, after reading the report, that they were 6 going to take an action other than what the mediator 7 was recommending? 8 So the governing board would have to sign 9 off on that as well? Because they have to go back 10 and have a meeting on that. 11 MS. BARNES: Well, if it's -- this 12 requires that both entities would have to sign off 13 on a negotiated change. And that's the same way 14 with your contracts, that if a school makes -- the 15 school governing board makes a change, it has to 16 come back to the PEC, and you have to adopt that as 17 well. 18 COMMISSIONER GIPSON: So -- 19 MS. BARNES: (Inaudible due to 20 simultaneous speaking) about the Commission? 21 COMMISSIONER GIPSON: So the mediation 22 happens. The mediator sends a report out. The 23 Commission would review that report at a public 24 meeting, and they would make a determination as to 25 whether they were going to accept that or perhaps</p>
31	<p>1 MS. BARNES: So like this? This was 2 already in the previous draft. All that is added 3 here is this. (Indicates.) 4 Further discussion on that? 5 There's just one -- 6 MS. MISSY BROWN: Commissioners, I just 7 received word that Commissioner Ingham will be 8 calling in shortly. 9 MS. BARNES: Great. 10 Coming down here to the Dispute 11 Resolution, if you'll remember, this is required by 12 law -- Commissioner Gipson, did you want to join in 13 here? Or did you want me to explain this issue? 14 COMMISSIONER GIPSON: Sure. I just wanted 15 to make sure that if it went to mediation, that the 16 report from the mediator came before the full 17 Commission, and the full Commission made a decision 18 as to whether they were going to accept the 19 recommendation by the mediator or take some other 20 action, that it -- 21 MS. BARNES: So -- and, actually, the 22 Matthews Fox law firm also added in the governing 23 board as well, that it's memorialized in writing, 24 presented to, and, approved by the Commission, 25 governing board, during public meetings of those</p>	33	<p>1 not and take some different action. 2 That then would have to -- so that then 3 would have to go back to the governance council, and 4 the governance council of that school would have to 5 sign off on if there was the change. 6 MS. BARNES: Yes. 7 COMMISSIONER GIPSON: Okay. Okay. 8 THE CHAIR: Will you let Commissioner 9 Ingham into the panelists, please? 10 Thank you. 11 Commissioner Carrillo. 12 COMMISSIONER CARRILLO: Okay. First, as a 13 note, if we are going to vote on anything, we have 14 to make sure that we're bringing Commissioner Ingham 15 up to speed on what we've already done so that no 16 one can make a case that he came in and voted on 17 something he knew nothing about, relative to the 18 changes. 19 On this particular thing -- I don't like 20 it. I mean, I -- you know, I think it's approved by 21 the Commission. And we've gone to a mediator with 22 them. They've mediated in good faith, as have we. 23 The -- it's coming back to the full 24 Commission. And -- and we're making a decision. 25 Now, obviously, if we're going to make a</p>

34	<p>1 lot of changes, then it's going to need to go back 2 to their governing body. But if we've gone through 3 mediation and come out the other end, one could make 4 the case -- if the mediation was successful -- that 5 we're accepting that in that negotiating session. 6 Because that's what mediation is, that we're 7 accepting the agreement because we have mediated in 8 good faith. And them as well. And so -- 9 MS. BARNES: Well, I guess I didn't have a 10 problem with this, because this is a contract 11 between the governing body of the school and the 12 Commission. And for anyone to change it, both of 13 those entities would have to agree. 14 So if you want to go down the legal path, 15 either the governing body of the school or the -- 16 and the Commission -- which is not how it's drafted 17 right now -- in order to make a decision, it would 18 have had to have been -- the decision would have had 19 to have been delegated to a smaller group. 20 That's what Commissioner Gipson was saying 21 she didn't want to have happen. She doesn't 22 believe -- and I think that's correct -- that the 23 Commission can delegate a decision to amend a 24 contract to a smaller group. 25 What this is saying is that the governing</p>	36	<p>1 I wasn't done yet. 2 COMMISSIONER GIPSON: Well, I wasn't, 3 either. 4 COMMISSIONER CARRILLO: But -- 5 COMMISSIONER GIPSON: I wasn't either, 6 before. 7 COMMISSIONER CARRILLO: Well, okay. But 8 so our Commission has ten Commissioners and a 9 governing body that probably was in mediation was 10 three. I just -- I -- if you want to have a 11 governing body in there and keep it that way -- but 12 I would -- I think I'm agreeing with Pattie, in that 13 I don't see the need for the language to include the 14 governing body there, because they've kind of, de 15 facto, approved it by just coming out of mediation 16 with -- 17 MS. BARNES: Well, only if the five 18 members were there. I mean, they can't have a 19 quorum, or they would need to be in an open meeting. 20 So the mediation, by definition, is going to not 21 have a quorum of either group. I just didn't have a 22 big problem with it. 23 COMMISSIONER GIPSON: Yeah. But, 24 Commissioner Carrillo, it could be what if the 25 Commission decides, the full Commission decides that</p>
35	<p>1 body is going to do the same. 2 For me, if you -- as an attorney, I'd 3 rather have clarity that both entities have signed 4 off on it and that there's a clear meeting of the 5 minds between the two parties to the contract. 6 So I didn't have a big problem with this. 7 I think, in reality, they are going to delegate to a 8 subcommittee, those people who are interested -- 9 most interested in the issue, and they're going to 10 bring that back to the main body, and that group is 11 probably going to be given deference. 12 So I -- I'm looking for clarity in an 13 unclear situation, you know. That's why mediation 14 was triggered, so that there's now clarity. 15 So I guess I would rather know that their 16 full governing board did sign off on it. So I 17 didn't have a problem with it. I mean, as a 18 little -- kind of a little bit straightforward, and 19 it would be a little odd if we said, "No, the 20 Commission has to sign off on it, but we're not 21 going to let your whole governing body sign." 22 They're just asking for the same thing we 23 asked (inaudible due to simultaneous speaking). 24 COMMISSIONER GIPSON: I just want -- 25 COMMISSIONER CARRILLO: Hold on a second.</p>	37	<p>1 they're not going to support the mediation's 2 decision and go another path? That's when you have 3 to have that governing body agree to that. So I 4 think it has to stay there. 5 COMMISSIONER CARRILLO: I concede in that 6 regard. They -- I mean, if the mediation is not 7 successful, it's not successful. 8 COMMISSIONER GIPSON: Yeah. 9 COMMISSIONER CARRILLO: And, you know, if 10 it is, it is. In all likelihood, because we've 11 given the subcommittee that's going into mediation 12 direction, and in those directions we've given them 13 where our hard-line, drop-dead, you know, agreements 14 are, we would hope beyond hope that they would not 15 come back to us having violated that. 16 COMMISSIONER GIPSON: Yeah. 17 I have one question on number -- on letter 18 B. If the mediation determined that what the school 19 wanted to do and the Commission said, "No, you can't 20 do that" -- I'm making it simple -- and that was the 21 determination, there would be no amendment to the 22 contract, because we said, "No, you can't do it." 23 They wanted to do this. We said, "No, you 24 can't," and the end result was the mediator and the 25 mediation came out with the -- with the agreement</p>

38	<p>1 that, "No, you really can't do that."  2 So I don't know whether we need to add  3 language into B that the written agreement may  4 constitute an amendment, because it may not.  5 COMMISSIONER CARRILLO: Well, within that  6 vein, if it may constitute an amendment, does that  7 mean they have to come back to us for an amendment?  8 MS. BARNES: Yeah. I want to say if --  9 does that fix it, Commissioner Gipson?  10 (Commissioner Ingham has now joined  11 the panelists.)  12 COMMISSIONER GIPSON: Yeah, I think that  13 fixes it.  14 MS. BARNES: I think what -- what she was  15 trying to get away from is, like, a written  16 agreement, and then it's changed somehow, and the  17 party -- you know, it's just whenever that language  18 was negotiated.  19 Okay. I wanted to go up here and show you  20 what theirs is, though. And then we'll go back to  21 the one section for Commissioner Ingham.  22 The scope of it -- and I changed this  23 language a little bit, because maybe that was -- I'm  24 not quite sure what -- I'm not sure if there's --  25 I'm not so sure what the issue was.</p>	40	<p>1 they can agree to or not. But I changed it to where  2 it's not -- that this whole dispute resolution  3 doesn't apply to recommendations or authorizing  4 decisions and laws.  5 COMMISSIONER GIPSON: Right.  6 MS. BARNES: I just wanted to flag that  7 for you, because it's different. She's raised that  8 a couple of times. Maybe we just disagree. I am  9 not sure.  10 COMMISSIONER CARRILLO: Hold on.  11 MS. BARNES: I'm sorry.  12 COMMISSIONER CARRILLO: No. So if you  13 could scroll up just a little bit. So -- I'm  14 sorry -- down, I guess -- to show Patty's language.  15 You know -- and kudos to her for being their  16 attorney and wanting to put this language in.  17 But no way. No way. We're the  18 authorizer. If they can't accept that we're the  19 authorizer, then don't open your damn charter  20 school. You don't get to operate 100 percent  21 independently, you know.  22 You do that -- you want to do that, go  23 open a private. Yeah. I don't like this sentence  24 at all.  25 MS. BARNES: There is a tension in the law</p>
39	<p>1 But I wanted to eliminate from the subject  2 of a dispute resolution provision, if there's an  3 interpretation of state or federal law, that you are  4 not going to negotiate a CSD recommendation, and you  5 are not going to mediate an authorizing decision  6 required under the Charter School Act.  7 They want -- she wanted to strike this,  8 the Commission's decision, and really limit it to  9 not -- to deny approval of the new application, to  10 not renew the charter contract, to impose a  11 condition -- so this is very, very limited.  12 It wouldn't apply to all of your annual  13 report notices, wouldn't apply to if you took action  14 under the intervention ladder.  15 You know, I just don't want to turn your  16 authorizing duties into mediated things. Like, "We  17 don't think you should have put us on the  18 intervention ladder."  19 So I am not trying to expand it past where  20 you are authorized to act as a Commission. But I  21 also don't want to narrow it anywhere near as narrow  22 as this is.  23 COMMISSIONER GIPSON: Right.  24 MS. BARNES: So I -- I don't know if I  25 fixed it or not. I don't know if that's something</p>	41	<p>1 between having an authorizer and a mediation  2 provision. So it's odd.  3 Anyway, I -- that's -- this is my  4 suggestion. And I wanted to point out that it was  5 not what she said. She said it a couple of times.  6 Her full document is in there if you guys wanted to  7 take a look at it.  8 I do want to walk you through the rest of  9 it. We have put in what their -- what they want to  10 do, that you can't just say there's a contract  11 impasse and not say what you want to have fixed in  12 the contract; if there's a contract dispute, what  13 needs to be fixed.  14 So that is in here. And then there's this  15 provision about the proposed names of mediators and  16 trying to limit the time somewhat. But it's long,  17 still.  18 I don't know what to do. You know, that  19 they can -- you know, somebody can provide a  20 mediator, and then you've got ten days to respond,  21 can you do another one. And if that's not  22 acceptable, then the Secretary can identify someone.  23 And then you try to do it within 30 days. But  24 you're going to be -- you're going to be 60 days  25 out. I don't know how to fix that. So there's some</p>

<p style="text-align: right;">42</p> <p>1 clunkiness to a mediation that I don't quite know 2 how to fix.</p> <p>3 But she made other technical changes to 4 clarify it that I thought were fine. So -- it's 5 required. I still don't love it, but it's required.</p> <p>6 COMMISSIONER CARRILLO: Okay. So I'm 7 having trouble with all this mediation stuff, which 8 isn't to say I don't like there to be, you know, 9 amiability -- you know, a sense of getting along. 10 But if you can mediate everything, then where is our 11 authority as a Commission?</p> <p>12 If they're just -- it's like having -- 13 it's like having your five-year-old -- trying to 14 reason with your five-year-old. They don't reason 15 at age five. And that's not to say that, you know, 16 our schools are immature or something. It's just to 17 say that we're the authorizer, damn it. It is what 18 it is.</p> <p>19 MS. BARNES: This is in -- it's been in 20 law for a long time. And it's only been triggered a 21 couple of times that I know of. So I don't quite 22 know how to get around it.</p> <p>23 COMMISSIONER CARRILLO: So what I'm 24 hearing -- and maybe I'm hearing and reading 25 wrong -- is they're trying to have more</p>	<p style="text-align: right;">44</p> <p>1 to be held accountable.</p> <p>2 So let's say we come back after we start 3 really getting -- I mean, I'm sure we probably even 4 still haven't received, you know, the academic 5 reports and everything from two years ago. But -- 6 and now we come to a school, and we say, "Look, you 7 know, we're very concerned that not only did you not 8 have growth, but you're completely flat in your -- 9 in your performance" -- just let's say English 10 Language Learning and math. "And so now we're doing 11 the intervention ladder."</p> <p>12 Well, now they come back and they want to 13 mediate that because they don't feel that we should 14 be able -- they feel we're wrong, and we shouldn't 15 be able to do that.</p> <p>16 And then this whole mediation thing, if 17 you can even find a mediator in a timely fashion, 18 you're going to go out 60 days.</p> <p>19 I just -- I just -- it increases the 20 bureaucracy. I think the use of mediation should be 21 very limited. And, I mean, the language that we 22 allow the mediation should be very limited.</p> <p>23 MS. BARNES: I'm fairly comfortable 24 with -- like, for example, what you just identified 25 as an authorizing decision, you know, that's -- the</p>
<p style="text-align: right;">43</p> <p>1 circumstances under which a mediator could be -- or 2 something could be mediated. And where I think it 3 should certainly be in terms of violation -- if they 4 believe we're violating the contract or law or 5 something, I'm not sure how to work it out. It's 6 just the sense that I'm getting right now, you know.</p> <p>7 MS. BARNES: I also think the proposed 8 rule has a lot of opportunities for the schools to 9 kind of indicate their own position rather than 10 mediate something.</p> <p>11 I -- I -- we have to have a process. This 12 is not terribly different than what's in the 13 existing contract. There haven't been hundreds of 14 these. There have been a handful. And there's lots 15 of other opportunities under the rule for a school 16 to provide its own position.</p> <p>17 I think what's clear overall is that the 18 schools have not been comfortable with their 19 remedies when something is not going very -- you 20 know, something's not going well. So I don't -- 21 that's my general thought.</p> <p>22 COMMISSIONER CARRILLO: Okay. So 23 here's -- okay. So if -- let's -- to me, this is 24 around -- comes down to schools not wanting to be 25 held, or at least through their counsel, not wanting</p>	<p style="text-align: right;">45</p> <p>1 intervention ladder is part of the action you can 2 take. So that would be eliminated.</p> <p>3 So I agree with you. We have to have a 4 mediation provision. It's required by the statute 5 in the contract.</p> <p>6 I don't know. I guess I'm -- I'm 7 understanding the line, and I feel okay with this 8 line. But I'm happy to -- if you've got something 9 that makes it more limited, I can tell you they want 10 it far -- far less limited.</p> <p>11 THE CHAIR: Commissioner Gipson.</p> <p>12 COMMISSIONER GIPSON: Yeah. I think we're 13 less likely to get mediations as a result of, like, 14 the example that Commissioner Carrillo used because 15 of what Julia said, that letter C covers, you know, 16 all the decisions that we're making, so that if 17 we're steadfast in making sure that the school has 18 to communicate the part of the contract that's being 19 violated and not going off on a tangent that it's a 20 decision that we made, which is part of our 21 authority, then it'll -- and I'm comfortable with 22 it.</p> <p>23 Because as Julia has said, we've had so 24 few. You know, I think if we use the language that 25 Matthews Fox is proposing, we end up with a lot, and</p>

46	<p>1 that's not where we want to go.</p> <p>2 So this language here speaks to them not</p> <p>3 being able to make an appeal and ask for mediation</p> <p>4 because of a decision that we made, so that it has</p> <p>5 to be an identified violation of the contract, which</p> <p>6 I think they're less likely to be able to identify.</p> <p>7 COMMISSIONER CARRILLO: Perhaps we should</p> <p>8 look at Cesar Chavez as an example. I mean, I don't</p> <p>9 think they should have been able to mediate that.</p> <p>10 They were in clear violation of the contract.</p> <p>11 COMMISSIONER GIPSON: I agree.</p> <p>12 COMMISSIONER CARRILLO: So under the way</p> <p>13 it's written for us here, that would not be allowed</p> <p>14 to happen again; is that correct? Or incorrect?</p> <p>15 COMMISSIONER GIPSON: I'm sorry. It</p> <p>16 wouldn't or would?</p> <p>17 COMMISSIONER CARRILLO: Would not.</p> <p>18 COMMISSIONER GIPSON: It would not,</p> <p>19 correct. They would have to identify.</p> <p>20 COMMISSIONER CARRILLO: No, we're not</p> <p>21 meeting over any of this. You violated your</p> <p>22 contract, period.</p> <p>23 MS. BARNES: Well, I guess the way -- if</p> <p>24 you want kind of a fuller answer to that --</p> <p>25 COMMISSIONER CARRILLO: Hold on. I really</p>	48	<p>1 And there is a much longer section that</p> <p>2 was proposed by the Matthews Fox Law Firm. There</p> <p>3 was an attempt for me to do a process that was</p> <p>4 longer and more cumbersome. And the other</p> <p>5 Commissioners -- the Commissioners felt that this</p> <p>6 was sufficient, just adding this phrase from what</p> <p>7 was there before.</p> <p>8 THE CHAIR: Thank you, Julia, for walking</p> <p>9 us through.</p> <p>10 Any other comments, questions from the</p> <p>11 Commission?</p> <p>12 MS. BARNES: I'll just say one final</p> <p>13 thing, which is, in the form of motion, I have given</p> <p>14 the subcommittee on the rule and contract kind of</p> <p>15 permission to make non-substantive changes. I've</p> <p>16 got to say that every time I read this contract</p> <p>17 there's, like, "Oh, we should" -- I even just did it</p> <p>18 a few minutes ago.</p> <p>19 So both forms of motion allow for the</p> <p>20 subcommittee to make non-substantive changes,</p> <p>21 because I think that when we immediately use it,</p> <p>22 which, if you approve something today, we will send</p> <p>23 it out in a populated form by Wednesday, that we --</p> <p>24 we well might find small things that we need to</p> <p>25 tweak.</p>
47	<p>1 don't want a fuller answer. I just want to know</p> <p>2 that if line -- and I'm not trying to be rude.</p> <p>3 8.7.1.c., "The Commission's authorizing decision</p> <p>4 under the Charter Schools Act," that covers us in</p> <p>5 terms of the contract.</p> <p>6 MS. BARNES: Under the clarity of the</p> <p>7 contract here, yes. In my view, the lack of clarity</p> <p>8 under the previous contract, they had an argument.</p> <p>9 I mean, I --</p> <p>10 COMMISSIONER GIPSON: Okay.</p> <p>11 MS. BARNES: I looked at it before; so...</p> <p>12 COMMISSIONER CARRILLO: I like this. And</p> <p>13 Ms. Matthews, as well intended as I know she is as</p> <p>14 their representative, I do not like her language one</p> <p>15 bit.</p> <p>16 MS. BARNES: I'm going to back up for just</p> <p>17 a second for Commissioner Ingham, to show him the</p> <p>18 one section that has been changed.</p> <p>19 Commissioner Ingham, can you see this? I</p> <p>20 can't quite see you.</p> <p>21 So from the document that was posted on --</p> <p>22 that was uploaded on Thursday, we are adding only</p> <p>23 this provision, "Using a Commission-approved site</p> <p>24 visit -- annual site visit protocol that is adopted</p> <p>25 basically pursuant to the rule."</p>	49	<p>1 So -- and I've reviewed this, like, five</p> <p>2 times. I still feel like the subcommittee -- that's</p> <p>3 why I put that in there, "non-substantive."</p> <p>4 THE CHAIR: Great. Thank you.</p> <p>5 MS. BARNES: There are some draft motions</p> <p>6 in there if you want to use them.</p> <p>7 THE CHAIR: Commissioner Gipson.</p> <p>8 COMMISSIONER GIPSON: Are we ready?</p> <p>9 So I move that the Public Education</p> <p>10 Commission adopt the contract template as shown in</p> <p>11 document 5a. and authorize the Contract and Rule</p> <p>12 Subcommittee to make any non-substantive changes</p> <p>13 that may be identified.</p> <p>14 I further move that the subcommittee</p> <p>15 provide the seven schools in need of a new contract</p> <p>16 with draft contracts populated with information</p> <p>17 specific to the school and allow them an opportunity</p> <p>18 to review the contracts and provide the subcommittee</p> <p>19 with comments on the template.</p> <p>20 The subcommittee may then bring back any</p> <p>21 comments to the PEC for the May 19th, 2023, meeting,</p> <p>22 if needed.</p> <p>23 COMMISSIONER CARRILLO: I'll second.</p> <p>24 THE CHAIR: Thank you, Commissioner.</p> <p>25 All right. We're into conversation,</p>

50

1 discussion about the motion.  
 2 Are there any discussion items for this  
 3 motion?  
 4 (No response.)  
 5 THE CHAIR: Seeing none, Vice Chair Burt,  
 6 would you do a roll call, please?  
 7 COMMISSIONER BURT: Commissioner Gipson.  
 8 COMMISSIONER GIPSON: Yes.  
 9 COMMISSIONER BURT: Commissioner  
 10 Clahchischilliage.  
 11 COMMISSIONER CLAHCHISCHILLIAGE: Yes.  
 12 COMMISSIONER BURT: Commissioner Carrillo.  
 13 COMMISSIONER CARRILLO: Yes.  
 14 COMMISSIONER BURT: Commissioner Ingham.  
 15 I'll come back to him.  
 16 Chair Brauer.  
 17 THE CHAIR: Yes.  
 18 COMMISSIONER BURT: Commissioner Ingham.  
 19 COMMISSIONER INGHAM: (Indicates.)  
 20 THE CHAIR: I think we have to hear you,  
 21 though. He's motioning yes, but I think we have to  
 22 hear him; is that right?  
 23 COMMISSIONER CLAHCHISCHILLIAGE: Uh-huh.  
 24 MS. BARNES: He has to be able to hear us.  
 25 Can he --

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1 COMMISSIONER BURT: I think he can hear  
 2 us, but we can't hear him.  
 3 MS. BARNES: I think he could -- if he  
 4 can't -- I think he could call one of you, and if we  
 5 can hear him on his cell phone.  
 6 COMMISSIONER BURT: He just came in on the  
 7 phone; so...  
 8 COMMISSIONER INGHAM: Can you hear me?  
 9 THE CHAIR: Yes, we can hear you, sir.  
 10 COMMISSIONER INGHAM: Okay. Sorry.  
 11 Yes.  
 12 COMMISSIONER BURT: Thank you,  
 13 Commissioner.  
 14 And Commissioner Burt is yes.  
 15 So that passes, six-zero.  
 16 THE CHAIR: Thank you.  
 17 All right. So now we're moving on to our  
 18 final item, 6, adjournment. I'll take a motion.  
 19 COMMISSIONER BURT: I move.  
 20 THE CHAIR: I second. Can we do a  
 21 roll-call vote, please?  
 22 COMMISSIONER BURT: Commissioner Brauer.  
 23 THE CHAIR: Yes.  
 24 COMMISSIONER BURT: Commissioner Burt,  
 25 yes.

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1 Commissioner Carrillo.  
 2 COMMISSIONER CARRILLO: Yes.  
 3 COMMISSIONER BURT: Commissioner  
 4 Clahchischilliage.  
 5 COMMISSIONER CLAHCHISCHILLIAGE: Yes.  
 6 COMMISSIONER BURT: Commissioner Gipson.  
 7 COMMISSIONER GIPSON: Yes.  
 8 COMMISSIONER BURT: And Commissioner  
 9 Ingham.  
 10 COMMISSIONER INGHAM: Yes.  
 11 COMMISSIONER BURT: We're adjourned.  
 12 MS. BARNES: Thank you.  
 13 THE CHAIR: Thank you, all. Take care.  
 14 Have a good one.  
 15 (Proceedings concluded at 5:32 p.m.)  
 16  
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53

1 BEFORE THE PUBLIC EDUCATION COMMISSION  
 2 STATE OF NEW MEXICO  
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 15 hand on May 22, 2023.  
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14           In testimony whereof, I have hereunto set my  
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