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**Status of AIMS Notice for Concern
September 22, 2023**

The following information is outlined here. Each numbered item is a hyperlink to the relevant portion of the memo.

1. July action
2. August action and EC meeting with AIMS
3. Response by AIMS
4. Legal Requirements

July PEC Action

On July 22, 2023, Chair Brauer provided the school with a letter outlining the Notice of Concern to AIMS. Based on the PEC vote, it provided

To return to good standing, AIMS should provide a contract amendment with an amended Attachment F containing the full lottery and enrollment packet and procedures that meets the legal requirements and that conforms to the specific items set forth below for consideration by the PEC at its August 25th PEC meeting. I attach here a form for your use in providing the amendment. Director Corina Chavez is prepared to work with the school to submit the amendment.

The school must provide an amendment of Exhibit F of the Charter Contract including the following:

1. *That a lottery application form follows the guidance on lottery and is provided to families on website and at the school as a separate stand-alone document;*
2. *That the enrollment information and packet follow state and federal law and the PED guidance on lottery and are provided only to families, and requested of families, after the student is successful in obtaining a spot at the school through a lottery;*
3. *That the time period between the lottery and the submittal of a completed enrollment packet is sufficient to allow a family to gather the required information requested and follows the guidance;*
4. *That all references in the documentation to an “application” have been removed;*
5. *That only information required to enroll a student in a public school is included in the enrollment packet;*
6. *That no student work, such as an essay, is required or requested in the lottery or enrollment packet (although student work may be requested of a student after enrollment); and*
7. *That no recommendation, such as a teacher recommendation, is required or requested in the lottery or enrollment packet.*

August PEC Action and EC Meeting with AIMS

At the August 25, 2023 meeting, the PEC voted as follows:

AIMS is to provide its updated enrollment policies and practices at the September 22, 2023 meeting of the PEC. During the time up until the meeting, the school and school's legal counsel will work only with the PEC Executive Committee and PEC legal counsel to determine a process for negotiating a proposed resolution to the Notice of Concern prior to the meeting.

The Executive Committee and I met with Kathy Sandoval, Jerry Delmore, the IT person supporting the new on-line lottery and enrollment process and Marty Esquivel. The school showed the EC a draft of the lottery application and enrollment process in an on-line version. The lottery form is presently live on the website. A screenshot of the admission page language is provided on the next pages:

Admissions Process

Admission to AIMS is determined by lottery selection. If you would like your son or daughter to be considered for enrollment, please go to our [Lottery](#) page:

The admissions process starts with the Lottery Application. Here your students' name and contact information will be entered along with the parents' or guardians'. This information will be used to contact all successfully drawn students.

Families will be notified by mail if your student is drawn in the lottery.

After being drawn in the Lottery (and only after being notified), you will be invited to fill out the Enrollment package. This package will include pertinent health information, and allow for upload of certain files. These files can also be delivered to the school in person.

Paper applications for the Lottery and Enrollment will no longer be available for download, however we do supply access to the online portal at the physical school location.

AIMS@UNM
Attn: Admissions
933 Bradbury Dr. SE
Albuquerque, NM 87106

Official Lottery applications for the 2024-2025 school year are available beginning November 1, 2023.

If you have any questions, please [contact the school](#).

WHAT WE NEED TO KNOW:

The only requirement for admission to AIMS@UNM is a desire and passion for mathematics and science and a commitment to develop those skills.

IS THIS PROGRAM RIGHT FOR YOUR CHILD?

AIMS@UNM is a rigorous academic program designed to prepare your student for participation in a global economy and includes a dual enrollment criteria with the University of New Mexico or CNM. Middle school curriculum is designed to prepare students for advanced coursework in high school. Students enrolled at AIMS take Algebra I in 8th grade, Geometry in the 9th, Algebra II/Trig in grade 10, Calculus in grade 11, and dual enrollment advanced math during their senior year. English and History are Advanced Placement (AP). Additionally, students must take two years of "critical languages" identified as Japanese or Chinese.

* Please note: AIMS@UNM does not provide transportation. Students must bring lunch from home (refrigerator and microwave provided)

The school indicated that the recommendation and the student essay are now voluntary. The school provided the draft of the page which requests these forms. The EC provided specific comment on this area. In particular, the EC provided comment on the following entry on the enrollment process¹. 1, 2 5 and 6 are all required for enrollment, just not required to be uploaded electronically. The school seemed to represent that 3 and 4 would be entirely voluntary and not required for enrollment. That is not clear from this language. We do not know if that has been clarified as no updated screenshots have been provided by the school.

The screenshot shows a web browser window with multiple tabs. The active tab is titled 'Document Upload' and 'Form Set: AIMS NEW STUDENT ENROLL'. Below the browser window, there is a 'Document Upload' form with a grid of fields. Each field has a checkbox and a 'Mandatory' toggle switch. The fields are:

<input type="checkbox"/> Student Verifiable Info Mandatory <input type="checkbox"/>	<input checked="" type="checkbox"/> Document Name Mandatory <input type="checkbox"/>	<input type="checkbox"/> Document Verification Certificate Mandatory <input type="checkbox"/>
<input type="checkbox"/> Issuer Name Mandatory <input type="checkbox"/>	<input type="checkbox"/> Issuer Country Mandatory <input type="checkbox"/>	<input type="checkbox"/> Document Identification Code Mandatory <input type="checkbox"/>
<input type="checkbox"/> Document Expiration Date Mandatory <input type="checkbox"/>	<input type="checkbox"/> Document Description Mandatory <input type="checkbox"/>	<input checked="" type="checkbox"/> File Mandatory <input type="checkbox"/>

Below the form is a 'General Instruction For DocumentUpload Category' section with a rich text editor. The text in the editor reads: 'Please upload the following documents:' followed by a numbered list:

1. Proof of Birth
2. Immunization Records
3. Writing Sample Essay
4. Letters of Recommendation
5. Dental Information of Wavier Form
6. Digital Use survey

AIMS response.

In a document provided to the PEC on September 15, 2023, Mr. Esquivel provided a letter update to the PEC that is in the google drive. While Mr. Esquivel indicated that I had provided the school with the option to attend the PEC or meeting or just provide a letter, we have clarified to Mr. Esquivel as follows:

AIMS is on two agenda items next Friday regarding the Notice of Concern. It is up to you to advise your client to appear or not and whether to be there to provide an explanation or answer questions. As indicated previously, whenever a school is on the agenda, Chair Brauer asks first to hear from the school (which is available either in person or virtually),

¹ The meeting was not taped. However, the screen shot was taken from the meeting while Mr. Delmore was walking the EC members through the draft webpages.

then moves on to staff and Commissioner comments or questions. That will happen again this month for every school on the agenda. The expectation of the PEC was outlined by Vice Chair Burt at last meeting "if you're on the agenda, every school knows to come to us." However, how your client decides to respond to the Notice of Concern for the Commission is up to them.

While the Executive Committee agreed to meet with the school, they will not present the school's documentation for the school, provide any type of recommendation to the full PEC or answer questions about the documentation that you may send today if the school is not at the meeting. They agreed to meet with the school to provide input and felt that the meeting was a good exchange of information. However, it is up to the school to present what it wants the PEC to consider regarding the Notice of Concern under the intervention ladder during those agenda items.

Legal Standard

Federal and state law require that a school provide a free public education.

NMSA 22-12A-3 provides the right to a free public education, and the charter school law requires that a lottery be held if more students apply than spots available.

Federal law requires that a child be provided with a free public education regardless of their actual or perceived race, color, national origin, citizenship, immigration status, or the status of their parents/guardians. The U.S. Supreme Court has weighed in on this issue several times beginning with Brown v. Board of Education, 347 U. S. 483 (1954) and again in Plyler v. Doe, 457 U.S. 2023 (1982), in addition to providing express protection for special education students.

Further direction from the Office of Civil Rights, U.S. Department of Education confirms that a school must eliminate student enrollment practices that may chill or discourage the participation, or lead to the exclusion, of students in a protected class. They have outlined the legal basis on this issue in numerous docketed cases. Three examples are listed below:

***Arlington Independent School District
OCR Docket 06-10-5002***

The applicable standards for determining compliance are set forth in the regulation implementing Title VI, at 34 C.F.R. § 100.3(a), (b)(1) and (2). The regulation implementing Title VI, at 34 C.F.R. § 100.3(a), provides that no person shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program operated by a recipient..... The regulation implementing Title VI, at 34 C.F.R. §

100.3(b)(2), prohibits a recipient from utilizing criteria or methods of administration that have the effect of subjecting individuals to discrimination because of their race, color, or national origin.

The administration of how students participate in educational programs and classes can result in unlawful discrimination based on race and/or national origin if students are subjected to different treatment based on their race or national origin, or if a policy or practice that is neutral on its face and administered neutrally results in a disproportionate and unjustified impact on students of a particular race or national origin.

**Baltimore County Public Schools
OCR Docket No. 03-15-5002**

The school will produce a written report, containing findings and recommendations for use by School System's Superintendent and Board of Education, including the following information:

b. Identification and assessment of potential barriers to students, including students with disabilities, who seek to apply or enroll in the Schools, including, at a minimum: number and subject matter of the Schools' programs; geographic location of the Schools; transportation; curriculum in previous grade levels, including any limitations that may cause students with disabilities to be unable to meet the Schools' admission requirements; the use of the current assessments for program admission; School System communication about the factors considered for admission to the Schools, including the use of the term "criteria" on self-evaluation forms in describing admission considerations that are not requirements; School System communication and outreach regarding its rules and procedures for providing special education and/or related aids and services at the Schools; availability of related aids and services, such as assistance from one-on-one-aides and in-school therapists, at the Schools; and physical accessibility of the Schools' building, facilities, and program locations

**Buffalo Public Schools
OCR Case No. 02-14-1077**

By December 31, 2014, the District will complete a review and assessment of the admissions and enrollment rates for the District's eight criteria-based schools (the Schools) for school years 2012-2013 to 2014-2015. As part of its review and assessment, the District, at a minimum, will review and assess any potential barriers to increased student applications, admissions and/or enrollment in the Schools, relating to:

1. *the location, number, and subject matter of the Schools;*
2. *transportation to and from the Schools;*
3. *the lack of a structured program of course offerings or lack of available foundation courses at elementary schools and middle schools to prepare students to become successful applicants and students at Schools later in their education;*
4. *any District enrollment, registration, or other policies and procedures related to admission to or enrollment in the Schools;*
5. *communication and outreach to students and parents/guardians about the Schools;*
6. *advertisement regarding the Schools;*
7. *peer pressure;*
8. *early awareness on the part of parents/guardians/students of the relationship between success in elementary/middle school curriculum and testing and admissions at certain criteria-based high schools;*
9. *the role of guidance counselor services;*
10. *support services for students enrolled in the Schools or preparing to apply to/enroll in them; and*
11. *identify any other potential barriers to increased student applications, admissions, and enrollment at the Schools.*