

PUBLIC EDUCATION COMMISSION  
MINUTES  
March 25, 2010

**1. CALL TO ORDER**

Chair Catherine Smith called the PEC meeting to order at 8:02 a.m. at Albuquerque Balloon Headquarters, 4401 Alameda Blvd, NE, Albuquerque, NM.

**2. ROLL CALL**

Secretary Millie Pogna conducted the roll as follows:

Ms. Catherine M. Smith, Chair, District 6, Los Lunas  
M. Andrew Garrison, Vice-Chair, District 1, Albuquerque  
Mrs. Millie Pogna, Secretary, District, 2, Albuquerque  
Ms. Mavis Price, Member, District 5, Gallup-McKinley (arrived late)  
Mr. Eugene Gant, Member, District 7, Las Cruces  
Mr. Vince Bergman, Member, District 8, Roswell  
Ms. Carla Lopez, Member, District 4, Santa Fe  
Mr. Jeff Carr, Member, District 10, Taos  
Ms. Carolyn Shearman, Member, District 9, Artesia  
Ms. Kathryn Krivitzky, Member, District 3, Albuquerque

**PEC RETREAT**

**National Association of Charter School Authorizers Report**

Dr. Don Duran, Assistant Secretary for the Public Education Department's Charter School Division, introduced William Haft and Doug Thaman who are from the National Association of Charter School Authorizers (NACSA). They conducted an Authorizer Evaluation and presented the outcome of that evaluation. Mr. Haft said that the evaluation is a launch pad for planning, processing and strategic plan. He reviewed the mission statement of: to improve student achievement through responsible charter school oversight in the public interest.

Authorizer Activities included to decide whether to authorize the school; make the deal, enforce the deal, give the school room to succeed (or fail), and improve education. Chair Smith stated that she had a problem with the statement giving the schools room to succeed or fail. She believes that it is about children and the success of the children. Mr. Haft said they reviewed the charters, their successes, are given 5 years to perform, and they evaluate their performance to get the results they expect or they are not renewed.

Mr. Haft then reviewed the evaluation structure which outlined the application decision-making; school operation; accountability decisions; school autonomy and education quality. Commissioner Carr said he felt that PED was understaffed to handle the job that needed to be done with state and local charter schools. Mr. Haft stated that the PED's CSB has done a great job with what they have. He said that communication happens to be one of the issues. The challenge is that the charters are scattered, but the monitoring is going well. Commissioner Carr stated that he did not believe that the PEC could take on 20 more charters because of lack of staff and there are certain issues the law does not allow. Mr. Haft said they have addressed some of these issues and it will take planning and strategizing to get where the PEC and CSB need to be with current charters and then review if they can handle more charters. Mr. Haft then reviewed what would be needed for authorizers to evaluate and review as an authorizer, such as the review policies and protocol; contracts with charters; review school survey and focus group; phone conversations with PEC and staff interviews, meeting observations, and records of decision-making.

Mr. Haft then began reviewing the findings.

Part I application decision-making:

It is clear what CSB requests the applicant to provide during the application process. CSB and PEC have an interview process, community meetings, that are conducted where overall chartering goals are reviewed and what is being accomplished. These meetings also let the applicants know what the expectations are, what a good application contains, know what types of priorities the Commission is looking for and what type of criteria for what the schools want to accomplish. Mr. Gant said it sounded like they would have to do an RFP. Mr. Gant then asked if this would lead to for-profit companies coming to build charter schools.

Chair Smith said she had a problem going to an applicant and saying that she cannot vote to approve because the department does not have the capacity for another new school. Mr. Haft explained that this is looking at the applicant and seeing if they have the capacity and capability to carry this kind of load and can they make this plan happen. It is a demonstration of being able to carry this capacity. Chair Smith stated that going to the legislature to convince them to finance the Public Education Department to provide meaningful oversight, monitoring and technical assistance over Charter Schools. An example was given of how the city of Chicago has an application process to recruit for schools where the plus would be that the city would provide the building.

Mr. Gant said charters are spread throughout New Mexico and clustered in Albuquerque, Las Cruces, and Santa Fe. People start saying the Commission is going out and advocating for schools of a particular size and location. What happens to the rural area? Is the Commission going to show favoritism for those applications rather than the rural and taking into consideration that they can only approve 15 a year and not 20. Dr. Duran stated that under the rule the Commission can approve 15, but 15 cannot open in one year. If the district approves seven and the Commission approves five the Secretary would

then have a lottery on who would open. There is not a limit to how many are approved but there is a limit as to how many open in one year.

Mr. Haft said there can be a criteria set up by the Commission of what they would like to see happen. The Commission could bring in those applicants and make their decision on what is better for the community. Mr. Haft explained that clarifying the scope and implementation of monitoring authority, define components of the education program and school operation and develop appropriate monitoring standards. He said to hold charters accountable for each item that is on the application and getting clarity on what areas they want to hold the charter accountable for can be improved upon during the application process. Financial performance and getting a handle on this is important. Reviewing the criteria that they want to hold the school accountable for and review this at the time of renewal would be valuable in renewing or closing a school.

#### School Operation:

Discussion was about the contract and doing a good job with clear comprehensive alignment of expectations of external authorities. The perception is that charter school can do whatever they want. There are very substantial requirements and compliances that they have to do and, like public schools, they are required to comply. Pre-opening requirements are important and making sure that they are in fact ready to open and are taking the proper steps to open. Performance standards are essential. What are the expectations of where the PEC would like for them to be? Financial performance is essential and reporting is not always getting to CSB. CSB needs to get the financial information consistently. Also discussed were PEC expectations of what the school should be, criteria for the school to continue being successful or, in certain problem issues, the criteria to revoke the charter.

#### Renewal:

By the third year of operation, the PEC and CSB should know if the schools are going to be a success. Waivers are an issue and what is the process that the PEC should work with this? Mr. Haft stated there needs to be a clarification of what they expect in waivers and to clarify the statewide functions. Performance is important and where the charter should be, and whether it is better than schools around it. The PEC needs to figure out how to measure the charter schools. Vice-Chair Garrison asked about the rating. He felt that communication should be number one on defining, revising and establishing a rating system with charter schools. Mr. Haft said that communication was addressed at the beginning of his presentation and it is very important through the entire process. Vice-Chair Garrison stated that communication is important and something the authorizers need to follow-up with the schools and hold the schools to their contract. Mr. Haft said that in the process of communicating with the charter schools, the PEC needs to know their progress and knowing by the third year whether the charter is going to make it or not. Vice-Chair Garrison commented that there should be some other definition on the rating symbols, and there should be another definition with well-developed; partially developed and undeveloped. Mr. Haft said they started with the four, and they needed a gradation to give a sense of what was going on. School autonomy is well documented, and there needs to be a system for continuous improvement of the authorizers and the school relationship. Knowing and being clear about expectations and what the relationships are is part of the findings.

The next step is school quality. The schools being looked at are schools that have been in operation three years. New Mexico does not have schools that fit in this category. This item was placed on hold for a couple of years. Commissioner Shearman asked about Section 4, particularly about waivers and how the Commission has struggled with this on class size or teacher-student ratio. Mr. Haft said that this is one of the areas that need clarification from the legislature or in policy. It is a good practice to have information in law on how the Commission wants to handle it. Colorado requests waivers for what they need. Typically it is fairly automatic and by law they need reasons for requesting a waiver. This is one way to approach it. Commissioner Shearman said that she has problems with waivers requesting pupil-teacher ratio and what are they looking for. Dr. Duran stated that this is an issue of law and the Secretary needs to weigh in on this. Dr. Duran said this is a confusing issue and Mr. Haft in the report said that the Secretary of Education has authority and it is a legal issue that has to be worked out. Mr. Haft said that there are things in the report that say we need more guidance on this.

Chair Smith said this has been a critical issue for the Commissioners. The issue of the waivers is a major issue that needs to be discussed soon before the next round of approvals. Dr. Duran said that NASCA has volunteered to continue volunteering to assist CSB. He suggested having another retreat to address the report, some of the legal issues, discussion with the Secretary on waivers, and to get together with NASCA on where do we want to move with this report.

Dr. Duran said June 1<sup>st</sup> is when the first charter school application is due and without rule he does not know what they can do. Assistant General Counsel Rod Ventura said that the issue of waivers is not just an issue for Charters but for all schools. He believes that this has come up at a good time where there is an opportunity to discuss with the Secretary. Vice-Chair Garrison said the next item: Roles, Responsibilities and Concerns of PEC with the Secretary will address this. Mr. Haft said that legal and policy issues are items that need to be worked out and addressed.

Mr. Haft wanted to talk about school quality, things to think about once you do have information, how you think about the schools and what they are doing. He gave the portfolio performance criteria and what could be expectations for each school. He gave four quadrants for the school to use as guidelines for what they would have as expectations. The High Achievement with strong operations is a situation where good things are happening and where autonomy comes in; High Achievement and weak operations would look at direct intervention and look also into limited autonomy; to Low Achievement with strong operations and Low achievement with weak operations. These options would have different scenarios and each a different consideration on the success of the school.

Performance issues and closure of a school decision are tough to make but making informed decisions to have a performance criteria is instrumental in reviewing the renewal. Dr. Duran said that there are four schools that have completed a full year of operation. Look at the quadrant and see where do they fall.

Dr. Duran said that for the retreat, maybe the PEC Charter School Sub-committee could meet with NACSA and plan the retreat. The Commission reached a consensus to have NACSA meet with the Sub-committee and plan the retreat.

NASCA does provide examples of Authorizers which they will share. These can be tailored to individual needs.

Dr. Lisa Grover, said they were one of the leaders in facility funding. They will be looking at policy changes in line with what NACSA recommended. The State Leaders Council will make a presentation to the PEC in June about what the Coalition is doing.

Commissioner Gant suggested looking into student tracking so we know where they are and how they are doing.

Dr. Duran said he will call to set a meeting to look at dates for the retreat for the Commissioners. Dr. Duran also thanked NACSA for their time and guidance this first year.

Chair Smith recessed the meeting at 10:00am

Chair Smith reconvened the meeting at 10:20am

#### **ROLE, RESPONSIBILITIES AND CONCERNS OF PEC**

Chair Smith introduced Dr. Garcia. Dr. Garcia said she wanted to respond to something that staff shared with her on the Commissioner's authority on waivers and charter schools. She said that the statute is clear and there is not a lot for interpretation or debate. It is the PEC's decision if they want to go for a statutory change with the legislature. This is part of what is discussed with waivers with other public schools. Charters are entrepreneurial and have the opportunity to not be restricted with waivers and be held to having results. With that said, she believes it behooves the authorizer, at the time of renewal that if the charter does not have the academic standards then they can act to not renew that school. The language in Washington being used now: "tight on results and looser on means."

Chair Smith said that in the application process there is a section where it asks if the Charter will request waivers. The school says no, but later on makes a waiver request. She views this as a change on the application. Her second question directly concerns Dr. Garcia and how definitive does the waiver request have to be. She said that she would not want the Secretary to put any waivers on class size. She said that she would want to know class size and that it will not fluctuate. Dr. Garcia responded to key points: Shall means shall in terms of a waiver and in terms of those waivers it is spelled out in statute. General Counsel Ventura reads the statute 22-8-B-5: The Department shall waive requirement or rule and provisions of the Public School code pertaining to any individual class load, teaching load, length of the school day, staffing pattern, subject areas, purchase of instructional materials, and evaluations standards for school personnel, school principal duties, and driver education.

Dr. Garcia said that the one that is not in there is graduation requirements, and they would have to look at the nature of the school and their philosophy. Dr. Garcia said they would have to look at the charter

schools as a whole and not individually, looking at their structure, what their need is, and the framework. It is not a carte blanche and we will look at the Charter in a more holistic way. Dr. Garcia said they if the Commission has a problem with the word "Shall" that will have to be changed through the Legislature. The Commission will have to look outside of the box because there are so many ways to look at why they are seeking a waiver. In terms of the application, the Commission should look at a finalized application. Dr. Duran reviewed the application process and how they are cleaning certain things like the response to concerns by the Commission and giving them three days from the date of the hearing. He said they are going beyond the waiver piece and looking at the educational plan and being sure that it makes sense. Put a string through your mission, through the goals, through educational plan, and through facility and if string is there it is a solid application. If it is all over the place, then the Commissioners will have a hard time making a decision on the quality of the application and whether it deserves approval.

Commissioner Gant stated that once the Commission approves they no longer have authorization. What is their role? He said that once the contract is signed, they back off because all the power is with the Secretary. Dr. Garcia said let's talk about School Board and Superintendent in districts. Boards approve and give the authorization to the Superintendent to oversee and the Superintendent is held accountable for the performance and makes any recommendations that are necessary to oversee the school. Dr. Garcia said the CSB staff can, on a regular basis, give reports to the Commission on the progress and concerns on charter schools. Dr. Garcia explained that whenever the Commission needs financial reports, state-wide drop out or proficiency reports, these can be provided and should be included on the PEC agenda. Whatever types of reports the Commission requests, they will be provided.

Commissioner Gant also said he did not understand the lack of power that the Commission has, and he has spoken to constituents about this. Dr. Garcia stated that it was a huge governance change. They tried to give more meaning to the Commission by giving the authorizing of the Charter School otherwise, it would have only been responsible for the Carl Perkins Application and meeting with the PED on the Strategic Plan. In conversing with the Governor and Legislature, they agreed to move legislation forward and felt the PEC would play an important role in the whole issue of authorizer for Charters Schools.

Commissioner Gant brought up the costs to start a charter school and what is involved. Dr. Duran stated that is why the school gets the start-up grant to purchase furniture, rent, etc. They also go through the PSCOC for their lease payments. Dr. Duran stated that his department can give the Commission all the information on how a charter school is started up and when they get the money. Dr. Garcia said that she understands that Commissioner Gant is responding to the public, as she does. Dr. Garcia stated that she decided to not give the charter school Emergency Supplemental unless it was a true emergency. We do have small schools that are on Emergency Supplemental. The concerns of a moratorium on how many charters there are is a concern. Charter schools are a response to competition for public schools. The demand is there and the traditional school has to be creative in what they are offering. Dr. Garcia felt there could be cooperative to look at the alternative schools and how we can have more programs that meet the needs of students. The wait list for Charter Schools is growing. We don't know whether this is in response to higher levels of the educational need of the children or whether families want an alternative to public schools.

Legal representation for the Commission was discussed and whether Rudy Arnold or Willie Brown would work with the Commission during the charter school application process. PED counsel explained that it was ethical issue rather than law that they cannot represent two parties at the same time in a specific issue. Commissioner Carr said the ethical issue may not apply to a PED attorney when the charter application and legal counsel issues arise since the PED attorneys have the knowledge and experience in education. Ms. Krivitzky said the Commission does not need an attorney until the application process begins and only during that time. Her feeling was that the CSD attorney, Rudy Arnold, should be their attorney.

Dr. Garcia stated that for all purposes she was represented by PED's General Counsel and CSD was represented by their counsel. She was under the impression that the Commission wanted their own attorney. Mr. Brown stated that Mr. Arnold can represent the Commission, if the PEC is comfortable with this. In the event that the Commission has a conflict and wants different counsel, they can do so but, Mr. Arnold can and should represent the Commission. Mr. Arnold stated that he did not have a problem with representing the Commission. The general consensus is that Mr. Arnold will represent the Commission in the matters

Ms. Smith complimented Dr. Garcia, Bev and Bern for all the work that has been done for the Commission.

Dr. Garcia stated that the Commission has six meetings a year and suggested to the Commission that there be standing items on the Agenda including a brief report on state authorized charter schools and where they are on work plans, audits, and for start-up charters, the three reporting time updates which will give the Commission a better idea how the State Chartered Charter Schools are doing.

Dr. Garcia said another standing topic should be a legislative committee update. She suggested having their own budget and lobby the LFC and LESC for this budget. The budget as it stands is under the PED and is limited.

Chair Smith recessed the meeting for lunch at 11:36 am

Chair Smith reconvened the meeting at 1:00pm

Secretary Millie Pogna conducted the roll as follows:

- Ms. Catherine M. Smith, Chair, District 6, Los Lunas
- M. Andrew Garrison, Vice-Chair, District 1, Albuquerque
- Mrs. Millie Pogna, Secretary, District, 2, Albuquerque
- Ms. Mavis Price, Member, District 5, Gallup-McKinley
- Mr. Eugene Gant, Member, District 7, Las Cruces
- Mr. Vince Bergman, Member, District 8, Roswell
- Ms. Carla Lopez, Member, District 4, Santa Fe
- Mr. Jeff Carr, Member, December 10, Taos
- Ms. Carolyn Shearman, Member, District 9, Artesia
- Ms. Kathryn Krivitzky, Member, District 3, Albuquerque**

### **3. PLEDGE OF ALLEGIANCE AND SALUTE TO NEW MEXICO FLAG**

Commissioner Bergman led the Pledge of Allegiance

**4. STATEMENT OF ASPIRATION**

Commissioner Shearman delivered the Aspiration

**5.\* APPROVAL OF AGENDA**

Chairperson Smith presented the Agenda. Commissioner Krivitzky moved to approve the Agenda. Commissioner Garrison seconded the motion. The motion carried unanimously.

**6.\* APPROVAL OF MINUTES**

Vice-Chair Garrison moved to approve the December 16, 2009 minutes with corrections attached. Commissioner Price seconded the motion.

Secretary Pogna conducted the Roll Call: Mrs. Smith, yes; Mr. Garrison, yes; Mrs. Pogna, yes; Ms. Lopez, yes; Mr. Gant, yes; Mr. Bergman, yes; Ms. Shearman, yes; and Mr. Carr, yes. The motion carried unanimously.

**7. OPEN FORUM**

Chair Smith deferred this section because it is listed on the Agenda at 1:30pm

**19.\* SECRETARY OF EDUCATION COMMENTS**

Dr. Garcia stated that PED received NAEP results and the highlights are that 8<sup>th</sup> graders showed a 3 point increase which is significant, 4<sup>th</sup> grade declined by 4% and NAEP did not consider that significant. New Mexico also decreased the number of exemptions. She said that we have very rigorous standards in this state. She believes there is a missing link to why our students are not scoring that highly on the national test, and that the link is curriculum. Dr. Garcia said there were things that the community and parents could do to help. They can ask critical questions around curriculum and alignment. New Mexico is in the process of adopting the Common Core Standards, a national movement to have national standards in English language, reading and mathematics. Dr. García was in DC where the USDE is working on a Blueprint for the Reauthorization of the Elementary and Secondary Education Act, formerly known as No Child Left Behind Act. Dr. Garcia wanted to go over core things and what we are going to see. College and career readiness is going to be key where states require aligning standards with college and career. It is not college or career, but college and career. Some people ask why college and career because not everyone is going to college. These standards for excellence that teachers use work to give our students the needed skill set even for a two year college. She spoke of flexibility, a term people will start hearing more about. Tight on the ends loose on the means – holding people accountable for outcomes, but how you get there a little less prescriptive. Focus

on carrots not sticks. There will be rewards for high performance schools with competitive grants for bold action, more set aside money for Title I and other title programs, and the states will have to compete for dollars so that the reform agenda is met. Equity – The scope is still unclear, but there is a new focus on resource equity, which means equitably distributing qualified teachers, leaders, programs and for all students.

College and Career Standards will be tied to what is being done with Common Core Standards, and assessment will obviously be linked. New Mexico signed on as one of the 41 states to participate in this national project. We will look at growth versus status scores. New Mexico has always argued that student growth in proficiency is more important. We have not been able to get a growth model in New Mexico passed nationally because rural schools have lower enrollments and cannot calculate growth. She said it was an inherent problem in rural states that have isolation and small numbers. The hope of the CCSSO (Coalition of Chief State School Officers) should have draft legislation to Congress by May and reauthorization of ESEA should be complete by August. No more AYP, but accountability based on a child's growth with the goal of students being college and career ready.

Support and Intervention – States will be required to report on schools that are Challenged which are 5% lowest performing schools, 5% of Warning Schools, and those schools that apply for a turnaround grant. We are focused on a transformational model. This turn-around model calls more for removing the staff, shutting down and turning the school around. In the area of teacher leaders – Highly Qualified Teachers will move to an annual evaluation with a significant part based on student growth and reporting. Competitive grants will be used to evaluate new hires, tenure, promotion, dismissal and there will be an additional grant for effective pathways.

From Choice to Charters – Now we have to offer supplemental education and choice to parents whose children attend under-performing schools. With the new proposal, this will not be required for all underperforming schools. Choice will not be required, but a new focus and federal funding will be provided for charters and other innovative school models as part of a turnaround model.

Race to the Top – New Mexico with many other states was not funded on the first application. We are carefully reviewing the comments on our application. We will look at specific things as we prepare for the second application, such as a real commitment to pay teachers to educate children, turn low performing schools around, compromise with stakeholders, and find people to do that type of work. Another state had a number of focus groups, but this was not a favorable approach. PED is looking for innovation in the next application.

New Mexico is one of five states who have been approved for Phase II funding from the stimulus funds. We had to prove we could collect the data in four areas: Achieve equality and teacher distribution, improving, collection and use of data; standards and assessment to support instruction and supporting struggling schools. The \$61.4 million will flow through the formula.

Districts report using a program called "Certiclear" on how they are using these dollars. Dr. Garcia spoke to all Superintendents about the reporting and auditing of funds.

Budget - Overall the school districts were cut 1.5% by the Legislature, and the unit value cut may be higher than 2%. The Agency was cut 9%, with a possibility of losing 19 positions. Staff will be reorganized and some people will be asked to have dual duty responsibilities. I will look at core functions and what we can do with our employees. At this time, the Governor has put a hold on solar panels, Graduate New Mexico, and possibly use stimulus funding for other agencies to supplement the shortfall of the state.

7.\* OPEN FORUM

Chair Smith reported that no one signed up to address the Commission so she will continue with the Agenda.

8.\* REPORT ON AUDIT FINDINGS FOR STATE CHARTERED CHARTER SCHOOLS

Mr. Don Moya stated that the state chartered charter schools are under the PED purview. Audits are conducted through the PED. This is an important milestone as part of the CAFR. This is also a positive nod from the financial market. What are we doing to improve state chartered charter schools can be found in a listing of detail findings in your packet. PED is visiting the state chartered charter schools to provide technical assistance and to assist in resolving any findings. PED is meeting with these schools before the auditors so that we can provide assistance in minimize audit findings and correct any possible items. Commissioner Lopez commended Mr. Moya and felt confident with his work as he assisted SFPS when they were in trouble in the past. Audits will tax the PED budget as the number of charters increase. Mr. Moya said that an action plan is going into place. Although lack of staffing is a factor, PED will do everything to work with the state chartered charter schools. For the sake of transparency, PED has a number of audit findings and Mr. Richard Bejarano will do whatever possible to make this work. Commissioner Gant brought up Financial Manager training, mentioning that ASBO and other excellent training is available to these schools. The audits are reviewed at the time of the audit exit with the school and auditor looking at how to rectify the finding. All school districts will be required to have a budget and an audit committee.

9.\* LEGISLATIVE UPDATE

Dr. Garcia asked Mr. Moya to explain the Legislative funding. Mr. Moya stated that the biggest piece is the General Appropriation Act. In order to set a unit value, we must know what the appropriation is going to be and what the Governor is going the do about the state equalization guarantee. The districts at the Spring Budget Workshop were asked to look at a 2% cut so they know it would be down \$75-\$83 for the unit value.

We have two pots of money and we had to create a unit value for the Stimulus SEG money and a separate unit value for General Appropriations Act. The cuts have hit and now it will be

personnel. Oversight and accountability is difficult with cuts and less people. Commissioner Gant brought up the budget cuts and how will this affects small districts. The money was set aside for \$6 million for small school districts. Most small districts have declining enrollments, and it affects the money they receive. Emergency supplement is given to those districts and many request and function with emergency supplemental.

Vice-Chair Garrison reported on the NASBE Conference which he recently attended. The discussion started with the Common Core Standards. There was discussion that the CCSSO has not brought NASBE to the table on the Obama Blueprint. They gave a current report and when they looked across the landscape of the United States there are handfuls of states that are meeting these standards. The Child Nutrition Act and programs are in draft format. Vice-Chair Garrison said that one of the programs is to combat child obesity and First Lady Michelle Obama is an advocate for this particular issue. Vice-Chair Garrison is the Health and Wellness Administrator in Bernalillo County, and he is also passionate about this also. Healthy Schools Network Program is somewhat on hold, and Vice-Chair Garrison will follow up with NASBE to see what they can do on that end.

Dr. Garcia said the items that passed at the Legislation are in the Commissioners packets in the form of newsletter from the PED Legislative Bureau.

**10.\* PERKINS IV: STATE PLAN REVISION FOR YEAR 4 2010-11**

Dr. Melissa Lomax stated that the application for Carl Perkins Career and Technical Education Improvement Grant was in its 4<sup>th</sup> year. The meeting today is to request the annual approval of the 5 year state grant and the PEC has approved this grant annually. Dr. Lomax reiterated the college and career education that Dr. Garcia spoke of earlier. The Perkins Act is college and career education. FAPL, Final Agree upon Performance Level, are performance measures that are addressed at the state level to meet specified goals that the federal monitor want the program to achieve. She outlined various parts of the application and the budget portion involved in the grant. In December's consolidated annual report, New Mexico only missed one of those measures. They will continue to improve and meet the performance measures. Dr. Lomax outlined the Tech Prep Program, the districts, and Community Colleges they worked cooperative with.

A motion was made by Commissioner Gant to approve the Carl Perkins Career Technical Education Act of 2006 Revision of the New Mexico 5 year State Plan pending inclusion of Office of Vocational and Adult Education requirements received March 30, 2010 if any, inclusion of recommended and approved edits, if any, as discussed in the March 25, 2010 PEC Meeting. The motion was seconded by Commissioner Bergman. The motion passed unanimously.

**11.\* REQUEST TO SUBMIT LATE LETTER OF INTENT**

- a. Southwest Science, Aeronautics and Mathematics Academy

Dr. Duran explained that the rule by statute and law the applicants must have a letter of intent submitted by 2<sup>nd</sup> Tuesday of January. Under the rule, failure to provide timely notification may result in the application being rejected unless the organizers can demonstrate good cause why timely notification was not given. The requester was two days late because it was submitted through e-mail and the applicant was told to submit a letter which was a month later. The applicant must have good cause for not receiving the letter in a timely manner.

Chair Smith asked if a Commissioner makes a motion and the Commission votes it down, then what is the next procedure. Mr. Arnold stated that the motion doesn't carry and it is denied. Dr. Garcia suggested that the PEC should do a motion to grant the request and the Commissioners vote to accept or deny by a roll call vote of yes or no roll call. Dr. Duran stated this is not about the merit of the school but about good cause why the letter of intent was submitted late. Dr. Garcia stated that this particular decision is **not** appealable. Dr. Duran confirmed. Chair Smith opened the item to anybody who wanted to speak to this item of business. Mr. Arnold stated that the law reads that the Commission has to put aside what good cause is or is not, the only person who can speak is the applicant and not open to general public.

Scott Glasrud represented Southwest Science, Aeronautics and Mathematics Academy and the three reasons why they did not meet the January 12<sup>th</sup> deadline. The first reason was that they needed to meet with City of Albuquerque for feasibility to situate the school next to the aeronautical museum, the Double Eagle Airport. The second reason was finding kids to attend. They wanted to get a detailed list and location of the Westside. The third reason, the groups other existing three State Chartered Charter Schools are successful and therefore they decided to expand the schools to the Westside and provide a world class education.

Chair Smith moved the Public Education Commission approve the request, Whereas, the applicants of the proposed Charter School entitled Southwest Science, Aeronautics and Mathematics Academy have requested that the Commission accept a late letter of intent to establish a charter School, therefore, be it resolved that the proposed charter school entitled Southwest Science, Aeronautics and Mathematics Academy request to accept a late letter of intent to establish a charter school is hereby granted. A second was made by Vice-Chair Garrison.

Commissioner Price asked when they decided to start a second Charter School and asked if they knew when the deadline was. Mr. Glasrud said yes to the second question, and it had been at the back of his mind for a while and knew when the deadline was and had no excuse for it.

Secretary Pogna then proceeded with the Roll Call: Catherine Smith, no; Andrew Garrison, no; Millie Pogna, no; Vince Bergman, no; Jeff Carr, no; Kathryn Krivitzky, no; Carolyn Shearman, no; Mavis Price no; Eugene Gant, no; Carla Lopez, no.

By a vote of 0-10 the late letter of intent for Southwest Science, Aeronautics and Mathematics Academy is denied.

- b. Personalized Learning, Inc. – John Bullock, Greg Scott, Michael Freemont, and Jay Michaelson represented the proposed Charter School. Mr. Bullock said the Board of Directors meet on a quarterly basis. At the quarterly meeting in November, the group wanted to open new charter schools beyond the ones that are open. The next quarterly meeting was on February 10 where they sought approval and this was beyond the deadline. The application will be ready June 1<sup>st</sup>. They will be meeting with the Superintendent in Farmington to open the Charter School there.

Commissioner Shearman made the motion: Whereas, the applicants of the proposed Charter School entitled Personalized Learning, Inc. have requested that the Commission accept a late letter of intent to establish a charter School, therefore, be it resolved that the proposed charter school entitled Personalized Learning, Inc. request to accept a late letter of intent to establish a charter school is hereby granted. A second was made by Vice-Chair Garrison.

Secretary Pogna then proceeded with the Roll Call: Catherine Smith, no; Andrew Garrison, no; Millie Pogna, no; Vince Bergman, no; Jeff Carr, no; Kathryn Krivitzky, no; Carolyn Shearman, no; Mavis Price no; Eugene Gant, no; Carla Lopez, no.

By a vote of 0-10 the late letter of intent for Personalized Learning, Inc. is denied

- c. M.I. Academy of Learning & Enrichment

Peggy Phillips petitioned the PEC to accept their letter of intent. She stated the mission and moral purpose of the school and reason why the letter of intent was late. Ms. Phillips stated that they realized that they needed the support of the community, university and appropriate teacher and ancillary staff to support the school.

Commissioner Price made the motion: Whereas, the applicants of the proposed Charter School entitled M.I. Academy of Learning & Enrichment have requested that the Commission accept a late letter of intent to establish a charter School, therefore, be it resolved that the proposed charter school entitled M.I. Academy of Learning & Enrichment request to accept a late letter of intent to establish a charter school is hereby granted. A second was made by Commissioner Krivitzky.

Secretary Pogna then proceeded with the Roll Call: Catherine Smith, no; Andrew Garrison, no; Millie Pogna, no; Vince Bergman, no; Jeff Carr, no; Kathryn Krivitzky, no; Carolyn Shearman, no; Mavis Price no; Eugene Gant, no; Carla Lopez, no.

By a vote of 0-10 the late letter of intent for M.I. Academy of Learning & Enrichment is denied.

**12.\* REQUEST FOR CHANGE OF SCHOOL NAME**

**a. New Mexico School for Architecture, Construction and Engineering  
Change to ACE Leadership High School**

Mr. Monfiletto stated he was here to ask to change the name of the school to ACE Leadership High School.

Commissioner Krivitzky made the motion: Whereas the New Mexico School of Architecture, Construction, and Engineering Charter School has requested an amendment to its charter to change the name of the school to ACE Leadership High School;

Therefore be it RESOLVED that: the request to amend the charter of the New Mexico School of Architecture, Construction, and Engineering Charter School to change the name of the school to ACE Leadership High School is hereby **GRANTED**. The motion was seconded by Commissioner Price.

Vice-Chair Garrison asked what the rationale for changing the name change and how that name change would better address the mission of the school. Mr. Monfiletto said the school is focused on the student having multiple career opportunities and the word leadership is an important identifier. Vice-Chair Garrison stated that he can be for or against for the acronym and the actual name is a mouth full. Commission Shearman stated that the word Leadership did not appear in the application or Mission of the school. Mr. Monfiletto said with the leadership piece the students will understand the different specialties and aspects of construction. Leadership is the opportunity to think of the entire process of construction. A graduate will be able to look at every aspect because the leadership component is involved in every aspect. Commissioner Shearman asked if they will teach leadership. Mr. Monfiletto said they would. Commission Shearman said leadership never appeared in the application. Mr. Monfiletto said that leadership is the result of the education that you get. Ms. Price also commented that it was not in the Mission Statement and leadership is not listed nor explained.

Secretary Pogna then proceeded with the Roll Call: Catherine Smith, no; Andrew Garrison, yes; Millie Pogna, no; Vince Bergman, yes; Jeff Carr, no; Kathryn Krivitzky, yes; Carolyn Shearman, no; Mavis Price no; Eugene Gant, no; Carla Lopez, yes.

By a vote of 4-6 the request to change the name of New Mexico School for Architecture, Construction and Engineering to ACE Leadership High School is denied.

**13.\* NOTIFICATION OF CHANGE IN GOVERNANCE**

- a. Albuquerque School of Excellence**
- b. Cottonwood Classical Preparatory**
- c. New Mexico School for the Arts**
- d. South Valley Preparatory School**
- e. Taos Academy**

Sam Obenshain explained that the schools are required to notify PEC of changes in governance – there is no action required, this is an informational item.

**14.\* PROPOSAL FOR SLIDING FEE SCALE AND ROOM AND BOARD CHARGES FOR NM SCHOOL FOR THE ARTS CHARTER SCHOOL**

Dr. Duran stated this is the proposal for sliding fee scale. The Legislature wanted the Commission to be involved to review the sliding fee scale for room and board charges. The School for the Arts will present the proposed sliding fee scale for room and board.

Dr. Jim Linear presented the proposals submitted in the Commissioner’s packet. Chair Smith asked about language on page 3 not limited to the five points. Did they find any other mechanism that they would choose to establish a fee? Dr. Linear stated that it was simply background, and they looked at different parallels of what the range of fees might be. Dr. Duran stated that the Legislature gave the five areas to base the scale on. Commissioner Shearman asked about the second page that lists family taxable income and asked if it was the amount per the IRS. Dr. Linear said it was verified. Dr. Linear said that the extra arts program and residential program are handled by an outside program. They did not allow funding for the residential program. It is incumbent on the founders to raise the money to offset the residential boarding costs. The Charter School Bureau will oversee the school but not the residential.

Commissioner Lopez made the motion: Whereas the New Mexico School for the Arts has developed room and board charges and a sliding-fee scale to defray all or part of the costs of room and board for students whose parents or guardians are financially unable to pay these fees and;

Whereas pursuant to Section 22-15F-7 NMSA 1978, the school has submitted the room and board charges and a sliding-fee scale to the Commission for initial approval during the planning year and may, for good cause shown, request changes at subsequent Commission meetings;

Therefore be it RESOLVED that: the Commission approves the attached room and board charges and sliding-fee scale to defray all or part of the costs of room and board for students whose parents or guardians are financially unable to pay these fees. The motion was seconded by Commissioner Price. Secretary Pogna then proceeded with the Roll Call: Catherine Smith, yes;

Andrew Garrison, yes; Millie Pogna, yes; Vince Bergman, yes; Jeff Carr, yes; Kathryn Krivitzky, yes; Carolyn Shearman, yes; Mavis Price yes; Eugene Gant, yes; Carla Lopez, yes.

By a vote of 10-0 the proposal for sliding fee scale and room and board charges for NM School for the Arts Charter School is approved.

**15.\* TIMEFRAME FOR RENEWAL OF CHARTER SCHOOLS**

Sam Obenshain stated that this is a yearly requirement for approval by the PEC and is based on the 2010 calendar.

Vice-Chair Garrison made a motion to approve the Timeframe for Renewal of Charter Schools. A second on the motion was made by Commissioner Shearman. The motion passed unanimously.

**16.\* PEC COMMENTS**

**a. NASBE Conference**

**b. PEC Budget**

Mr. Moya explained the budget and it is within the PED budget, it is affected by budget cuts and under the radar. Mr. Moya referred to Dr. Garcia's earlier comment for the Commission to go to the Legislature to change law to get a separate budget for the Commission.

**c. PEC comments and requests**

Mrs. Smith said she is appreciative of the PEC and their efforts and support throughout the years. Mrs. Price gave Ms. Smith a gift in appreciation for her many years of service to the Public Education Commission and the Department.

Ms. Shearman stated that she will not be able to make the meeting on the 23<sup>rd</sup>. Ms. Friedman will accept dates that Commissioners are available for the April meeting and present those to the PEC Executive Committee to make a decision. The Commissioners stated anything other than the 30<sup>th</sup> of April.

Ms. Krivitzky said she saw 6 out of 10 Commissioners attending the Spring Budget Workshop. She also said that the Legislative group should be set after elections and they have a chance to review who is interested.

Ms. Lopez commended Mr. Moya and his work at SFPS will assist the Commission in their work.

**17.\* ADOPTION OF OPEN MEETING POLICY**

Rod Ventura stated that pursuant to Open Meetings Act Section 10-15-1D the Act requires a public body must determine annually during a public meeting what public notice it must give for a public meeting to be held and which discussion or adoption of any proposed resolution rule,

regulation or formal action occurs and which a majority of the body is in attendance. They must give public notice which also includes any closed meetings a public body intends to have included here. The policy is the same as last year proposed policy but is amended to allow telephonic attendance at meetings. He recapped for regular meetings reasonable notice is 10 days, for special meetings depending on circumstances notice is from 3 day to 10 days; emergency meetings which are meetings called under unforeseen circumstances that if not address immediately will likely result in damage or injury to persons or property or substantial financial loss notice of 24 hours. This is the proposal for consideration and recommended approval of this policy.

Commissioner Carr moved that the Public Education Commission adopt the attached Open Meetings policy for the remainder of the 2010 calendar year in accordance with the Open Meetings Act, Section 10-15-1(D), NMSA 1978. The motion was seconded by Vice-Chair Garrison. The motion carried unanimously.

#### **18.\* ELECTION OF OFFICERS**

Mr. Ventura presided over the Election of Officers. He read the following:

- 1. The General Counsel for the Department shall preside over the election of the Chairperson of the Commission. No second is required for a nomination. After nominations are closed, Commissioners shall record their votes in a manner consistent with the Open Meetings Act. If there is one (1) nominee, the election shall be conducted by voice vote. The Chairperson shall be elected by a majority vote. In the event that a tie persists after three (3) ballot attempts to elect any officer, the winner shall be decided by an equal game of chance, such as a roll of dice, or card draw.**
- 2. Upon election, the Chairperson shall take office and preside over the election of the Vice-Chairperson and Commission Secretary, who shall be elected according to the same procedures used in electing the Chairperson.**

Mr. Ventura asked the Commission if they had any nominations for Chair of the Commission. Commissioner Price nominated Andrew Garrison for Chair. Mr. Ventura stated that Mr. Garrison has been nominated for Chair of the Commission. No further nominations were received. The vote was done, and the "I"s have it, and Mr. Garrison is Chair of the Commission.

Mr. Ventura asked Mr. Garrison to conduct the nominations for the other positions. He stated that in the event there was not a nominee, Mr. Ventura was prepared to hand out paper ballots and the Commission would write their last name on top and the nominee on the bottom. He would then collect the ballots and they would be read out loud to put in record.

Chair Garrison stated that nominations are now in order for Vice-Chair. Commissioner Gant nominated Commissioner Shearman; Commissioner Price nominated Commissioner Gant. There were no further nominations. Mr. Ventura then handed out the ballots to the Commissioners.

Mr. Ventura read out loud the vote: Bergman voted for Gant; Gant voted for Shearman; Carr voted for Shearman; Shearman voted for Shearman; Garrison voted for Shearman, Smith voted for Shearman, Price voted for Gant, Krivitzky voted for Shearman; Pogna voted for Shearman. Mr. Ventura said seven votes for Commissioner Shearman and three votes for Commissioner Gant. Commissioner Shearman has been selected as Vice-Chair of the Commission.

Chair Garrison stated that nominations are now in order for Secretary – Commissioner Lopez nominated Commissioner Price and Commissioner Shearman nominated Commissioner Gant.

Mr. Ventura read out loud the vote: Carr voted for Gant; Gant voted for Gant; Shearman voted for Gant; Garrison voted for Gant; Smith voted for Gant; Pogna voted for Gant; Price voted for Price; Krivitzky voted for Gant; Lopez voted for Price; Bergman voted for Gant. Mr. Ventura said eight votes for Commissioner Gant and two votes for Commissioner Price. Commissioner Gant has been selected as Secretary of the Commission.

**20.\* ADJOURN**

Commissioner Smith moved to adjourn the meeting at 4:22pm. Vice-Chair Shearman seconded the motion. The motion passed unanimously.