

PUBLIC EDUCATION COMMISSION

MINUTES

April 26, 2010

DRAFT

1. CALL TO ORDER

Chair Andrew Garrison called the PEC meeting to order at 9:02 a.m. at Mabry Hall, Public Education Department, Jerry Apodaca Education Building, 300 Don Gaspar, Santa Fe, NM.

2. ROLL CALL

Secretary Eugene Gant 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 (absent)
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 & SALUTE TO NEW MEXICO FLAG

Commissioner Krivitzky led the Pledge of Allegiance & Salute to New Mexico Flag.

4. STATEMENT OF ASPIRATION

Commissioner Vince Bergman gave the Statement of Aspiration.

5. APPROVAL OF AGENDA

Commission Gant made a motion to approve the agenda. It was seconded by Vice-Chair Shearman. The motion carried unanimously.

6. APPROVAL OF MINUTES (March 26, 2010)

Vice-Chair Shearman reviewed the minutes and requested approval of the following changes: Change Charter School Bureau (CSB) to Charter School Division (CSD) throughout the minutes. On page 2, 3rd paragraph, 4th line from the end of paragraph, it begins with Chair Smith stating

that going to the legislature to convince them to finance more charter schools. It was agreed to change to: . . . finance the Public Education Department to provide meaningful oversight, monitoring and technical assistance over Charter Schools. On page 3, 3rd paragraph, under the heading Renewal: Beginning with Mr. Haft stated the clarifying . . . this is an incomplete sentence. It was agreed to change to: Mr. Haft stated there needs to be a clarification of what they expect in waivers and to clarify the statewide authorization . . . On page 4, 4th paragraph reading Mr. Haft wanted to talk about are school quality things to think about once you do have information. The word are after the word about should be deleted. Page 5 under Roles and Responsibilities the second line from the end of the paragraph, a listing of waiver requirements, begins with Length of school day staffing pattern, subject areas. There should be a comma after school day. Page 6 the 4th paragraph the line beginning with Garcia (2nd line) Garcia cited that she decided not to give the charter school emergency supplemental unless it was a true emergency. The change will be lower case charter school, in Emergency Supplemental funding as typed. The past paragraph on page 6 the 1st sentence – Legal representation of the Commission was brought and who worked with Commission to represent them during the charter school application process. She did not understand when read but now makes sense. Page 7 the 4th paragraph last line – will give the Commission and better idea – should be a better idea. Page 8 under comments, 7th line up from bottom – some people ask why college and career because not everybody is not going to go to college. Correction is: because not everyone is going to college. On page 10 under item 8, the sentence, Mr. Don Moya audits are conducted by the PED. This is an important milestone of the coffer. The word cofer should be changed to CAFR an acronym. In same paragraph, begins: minimize audit findings and correct and possible items should be any. In last paragraph, 4th line, the money was set for \$6mil for small school district and the wording should be – set aside for. On page 12, at the top of page, 2nd line, then what is the net procedure. The word should be next. The 4th line in same paragraph – commission vote to accept or deny by vote of yes or no. Change to by roll call vote. On the third paragraph change Sherman to Shearman throughout minutes. On page 16, under PED Budget, Mr. Moya explained the budget and with it is within the PED budget – delete with.

Commissioner Smith made a motion to approve the minutes with corrections. A second was made by Commissioner Carr. The motion carried unanimously.

8. BUDGET UPDATE

A. Charter School Budgets

Mr. Moya stated he understood that at the last PEC meeting the Commission requested a standing report on Charter School budgets. Mr. Moya gave the Commissioners a hand-out that is a status of visits made to the State Chartered Charter Schools. He

introduced Mr. Ricky Bejarano and Mr. Gilbert Kometa who visited the State Chartered Charter Schools to provide technical assistance so the schools would be ready for audits. A handout, given to the Commissioners, included information about each one of the findings and the status of each one of the state chartered charter schools. Mr. Bejarano stated that the priority is the new state authorized charter schools which are Cesar Chavez, Alma D'Arte, Creative Education, and Gilbert Sena. At Alma D'Arte some of the findings were deposits made that were dated prior to the date of receipt in books and records; corrections made to original documents without initialing and dating, documentation missing from sample items selected that he reviewed. PED will do a follow-up prior to external audit in May to make sure the schools have made these corrections.

7. OPEN FORUM

Chair Garrison interrupted Mr. Bejarano's presentation for the timed item of Open Forum. There was no one who signed up for this item. Chair Garrison asked Mr. Bejarano to continue.

8. CHARTER SCHOOL BUDGETS - CONTINUED

Mr. Bejarano continued saying the level of severity is moderate to high, and that follow-up will be done every quarter. Cesar Chavez findings were minor with internal controls. There were invoices for support services which were not certified or signed as is required for professional services. There was also no verification of payment. Creative Education Charter level of severity was mild, and there were three instances of unsigned requisitions, and deposits that did not meet 24 hour next day business rule. New Mexico law requires that businesses deposit within 24 hours. Wire information was taken from bank statements and not when they came in. There were no issues with Gilbert Sena. Prior year state authorized charters: Horizon Academy West had 6 findings and all issues were resolved. One finding was found which they will have corrected by the time the external auditor comes. They will need to have a Fraud Policy in place. Cottonwood Classical had some severe compliance findings from last year. There is still work to do with Cottonwood Classical, and PED will meet with the principal or business manager to work on these findings. Mr. Bejarano found that when a business manager was managing more than three medium sized charter schools, there were problems because of the difficulty to manage that many charters. PED will do additional follow up with remaining charters from 2009 or before, and they hope to get that done by June 30th. Commissioner Smith thanked Mr. Moya for the work and oversight of the charters so it does not become a larger issue. Mr. Moya stated he wanted to provide meaningful technical assistance to turn over those rocks before the auditors get there and minimize the audit findings. Commissioner Bergman asked about how the Department would deal with a business manager with more than three charter schools. He wanted to know if there would be

legislative work or will that be handled internally. Mr. Bejarano stated that PED will monitor and work with the PED Licensure Bureau on issues. Compliance meetings will be done to make sure the business manager demonstrates that they have the capacity to perform the work. Mr. Moya stated that PED is looking at the rule and licensure for business officials and discussion has begun to enhance the rule and deliverables lacking from the rule. They will look at things such as, what is a business manager responsible for, what are we licensing them for, amending the rule on the specificity of what the business manager does, whether they are capable of taking on three charters. These sorts of items will be reflected in the rule.

Mr. Moya stated that in the Commissioners' notebooks there is a list of all the state-chartered charter schools that gives the name of the PED Budget Analyst, Consultant Hearing Officer, and date, time and location of the reviews. The date cycle, steps and reviews for submissions of budgets are listed.

Mr. Moya stated that the next he would discuss is the 2% for Charter Schools and a report. He explained that the chartering authorities are allowed to withhold 2% of the State Equalization Guarantee that flows to its charter schools. These funds can or should be used for operating purposes. He then reviewed the amount budgeted, amount used, and remaining amount. The 2% does not really cover all costs of monitoring and oversight of state chartered charter schools. Mr. Moya stated that as the numbers of state chartered charter schools increase that the money will not necessarily defray all of the costs to monitor the charters. Mr. Moya said budgets would not be provided every meeting, but PED can provide, with respect to state chartered charter schools' budgets, where the schools are with periodic reports, and whether they are on time and that sort of thing. Mr. Moya asked the Commission if this is the type of information they would like to see. Commissioner Pogna stated that it would be very helpful. Commissioner Garrison stated that this is along the lines of what he was looking for from Mr. Moya's department. Mr. Moya explained how the School Budget Bureau reviews the cash balance, how they build their budget, and that it is monitored throughout the year.

Mr. Moya said the next piece lists the PEC Budget, expenses, and remaining balance. He asked Ms. Tennyson if she had any input. Ms. Tennyson indicated that the NASBE dues of \$10,000 have been paid and are included in the report given the Commissioners. She reviewed the balances on the PEC expenditure report and indicated that the balances will be kept for emergency meetings and supplies needed for the Commission.

Ms. Price asked if the purchase for supplies needed Commission approval, and Ms. Tennyson stated no. Chair Garrison stated that there was a question Commissioner Gant asked about 1099s given at the end of year. Mr. Moya stated that it is for reimbursement for mileage and per diem. He will provide the Commission with the necessary information at the next meeting or by memo. Chair Garrison asked that he provide by memo. Ms. Shearman said that her CPA

stated that a person needed to receive over \$600 or better from the state as reimbursements before you need to send a 1099. Mr. Moya stated that he would review IRS policy and Per Diem Act and get back to the Commissioners. Commissioner Smith stated that Mr. Moya should check with Tres Jiron, former budget person with the State Department of Education, to get information when Ms. Jiron looked into this issue.

9. LEGISLATIVE UPDATE

a. LFC

Charles Sallee, Budget Analyst for LFC, presented for the LFC. The LFC currently has a project looking at charter schools with three broad objectives: governance or oversight of charters, resource allocation, and how students are performing. A public report will be coming out in June. Other projects in the making include, a review of UNM and NMSU, with a report coming out in July. Another project is looking at resources for public schools and developmental disability waivers under Medicaid, which is related to education because many children attend public schools. LFC will be doing school district evaluations in the southern part of the state and working with PED and LESC to set up criteria to choose those districts to be reviewed. They will look at visiting districts in close proximity because of budget situations. Another project is to look at public employee health benefit plans and administered by NMPSIA which are a major cost driver for public schools and maximizing resources through cooperative purchasing the state employee benefit plan and making sure people are getting a good deal. Commissioner Carr asked if BCBS has to ask the state for increases. LFC wants to know if we are buying their network, where are the set prices of their network, do we pay an administrative fee or is the state playing some larger role in setting the rates they are paying providers. Commissioner Smith thanked Mr. Sallee for presenting before the Commission. Mr. Sallee stated that if the Commission wishes to have a presentation on the charter school evaluation that can be provided at a future meeting.

b. LESC

David Harrell, Deputy Director of LESC provided a chronology of what the LESC has done in terms of charter schools over the years. LESC either hears endorsements of charter schools or introduces legislation on charter schools. The first charter school bill was enacted in 1997, which allowed five charter schools and which were public schools converted to public charter schools. The law was actually considered weak in the beginning. Because of growing dissatisfaction, a workgroup was convened to review the law and finally the Charter School Act was completed in 1999. The Act provided greater autonomy to create a charter school, as well as, creating the charter school stimulus fund. Things settled down for a while, but things picked-up with the implementation of

the new law. The previous New Mexico State Department of Education can attest that there was a conflict between the charter school enrollment procedures and the federal regulations. The LESC changed the enrollment procedures in 2007 to a first come first serve basis, and if there were too many students, the charter school needed to go to lottery. LESC did a survey of schools resulting in changes for size and conversion of charter schools. Mr. Harrell's chronology gave information on bills brought to the legislature and legislation that did not pass. He stated that through the years he reviewed the chronology, and it showed the Amended Charter School Act in 2006 on nepotism, in 2008 interim discussion began on the Public School funding formula and how it affected the charter schools. During the 2009 interim there were hearings to review charter schools with testimony from the NMCSC who gave their thoughts, and the collaboration between LESC, LFC and PED. The 2010 Workplan is in the making and will be dependent on what are the needs of charter schools and the growing numbers of charter schools. LESC will work closely with PED on issues that come up and will continue to review those issues. Commissioner Pogna and Chair Garrison commended Mr. Harrell on bringing all the information to the Commission.

10. RACE TO THE TOP UPDATE

Deputy Secretary Don Moya extended apologies from Dr. Garcia for not being able to attend today's meeting. She is working on important elements for the state's Race to the Top application. He explained that New Mexico was looking at the second round application for Race to the Top at the encouragement of top legislative and education leaders, business and community leaders. He said the leadership group met for two days to consider if New Mexico has the will to go through the second round of applications. The response was overwhelming, and they decided that to win, New Mexico would need an application that is innovative and bold; strong in all areas; offers clear, concise and substantive plans; provides specific implementation steps with time lines; and has district participation and support from the teacher unions. The leaders were presented the Delaware and Tennessee application which were winners in the first round. These applications had very few pilots, applications were statewide, everybody plays, and the state plays an important role in driving the whole agenda. The states played on their strengths. Dr. Garcia reviewed the reviewer's comments from round one, and said that New Mexico needs a clear path for measuring growth or addressing how student achievement will be tied to teacher evaluation. The Education Unions ultimately agreed to the use of multiple, reliable and valid measures including the Standards-based Assessment to tie to the teacher evaluation. The collective recommendation of the group is to continue only in the presence of a deep and broad stakeholder commitment. Given that the first application was met with one union's opposition, it was the group's strong advice to the Governor that he meet with the unions to find the depths of their commitment to round two.

Secondly, the group strongly conveyed that all stakeholders must have a voice in the education reform process in Race to the Top and Into the Future. Through the Race to the Top, New Mexico will be in a position for ongoing educational reform. Right now groups are meeting on the strategies for various sections of the application: Data systems to support instruction, providing high quality pathways for aspiring teachers and principals; improving teacher and principal effectiveness based on performance; ensuring equitable distribution of effective teachers and principals; improving effectiveness of teacher and principal preparation program; providing effective support to teachers and principals, intervening in the lowest school and LEA's and turning around the lowest achieving schools. Additional work being done at PED will state success factors, standards and assessments, making education funding a priority, and state policies related to equitable funding. Accompanying this will be a public outreach effort, a solicitation of memorandums of understand and letters of support. The timeline is to have a draft by May 15th and the final application is due in Washington, D.C. by June 1st. Documents will be posted on the web page and Mr. Moya encouraged the Commission to follow this effort. Commissioner Smith commended Dr. Garcia and others who worked hard and diligently to get the application through. Commission Carr echoed Commissioner Smith's comments. Chair Garrison was part of the Race to the Top round two and reviewed the Delaware and Tennessee applications. Both of these states compared to NM, where there are Native Americans and the diversity between urban and rural areas, shows how complex New Mexico's population is. He found it difficult to look at Race to the Top and see that the Feds come up with something that is not site based that we are going to follow. Education is site based management. We have principals and teachers who are involved in the schools; this is where the change needs to take place. Schools need to experience decision-driven change. He said the Race to the Top meeting was quite the experience and very rewarding.

11. SECRETARY OF EDUCATION COMMENTS

Deputy Secretary Moya said that Deputy Secretary Dr. Catherine Cross Maple has announced her retirement as of April 29th. He said it was a pleasure to work with her, and she will be missed. The PED Budget will be submitted to DFA by May 1 for Fiscal Year 2011. The reorganization of the Department has not been done yet. PED was appropriated \$2 million in HB 2 and received an additional \$1.2 from ARRA funds for STARS and OBMS, Assessment, and salaries and benefits. Mr. Moya stated that they will read that Dr. Garcia has sent a letter to the Taos School Board. He introduced Willie Brown to go over the process of the role of the Commission on this issue. Mr. Brown stated that this is a tough procedure and cautioned the Commission that there should be no discussion on the merit of this particular issue. He reviewed the process and procedure taken by the Department: the letter went out on Friday 4/23/10 and the Taos School Board has 30 days to respond with an action plan. If they do respond, the Secretary may suspend the Taos Board. If that is the Secretary's decision, she

must also meet with PEC. He referred to the Public School Code which is in the New Commission Manual referring to the Statutes, the citation of law 22-2-14 (page 17 of tan book). It states: if the Secretary decides to continue with the suspension that she must consult with the PEC who may recommend alternative actions for the Secretary's consideration. He stated that depending on what happens, he will be in contact with the Commissioners to provide additional information. Ms. Price asked about the Board Member who resigned, and Mr. Brown stated that it would be inappropriate to address this at this time.

12. COMMENTS & ASSIGNMENTS FROM THE PEC CHAIR

Chair Garrison asked General Counsel if the PEC committees are "Committees" or "Sub-Committees." Mr. Brown stated that when the PEC was the State Board of Education, it was a sub-committee. Commissioner Smith stated that just before the State Board became the Public Education Commission the groups were called "Committees." Mr. Brown said that he remembered there was a meeting in Albuquerque and the Commission amended the Rules of Procedure in an open meeting. The issue of "Committee" versus "Sub-Committee" was discussed, and the Commission adopted to change the name to "Sub-Committee." Chair Garrison decided to table the issue to be discussed at a later date. Commissioner Carr stated that to be correct, it is "Committee" and he quoted Robert's Rule of Order. Chair Garrison tabled the matter to the Executive Committee.

a. Leadership of Sub-Committee

Chair Garrison appreciated the emails where Commissioners requested sub-committees that each Commissioner wished to be a part of. He read the sub-committee listing: Charter School sub-Committee: Catherine Smith, Chair; Kathryn Krivitzky and Vince Bergman. Career Technical Education (CTE) Sub-Committee: Eugene Gant, Chair; Jeff Carr and Carla Lopez. Strategic Planning: Kathryn Krivitzky, Chair, Mavis Price and Millie Pogna.

b. Roles of PEC Liaison

Chair Garrison stated that he spoke with Tony Shivers, Governmental Affairs Chair for NASBE. Chair Garrison's membership on this committee has expired, and he will follow-up with Mr. Shivers. He also mentioned that Collin Peckrin, Director of Healthy Schools, and is no longer with NASBE and a replacement has not been made. Chair Garrison said this is committee work is near and dear to him, and he will follow-up on this. He also mentioned that the NASBE dues of \$10,000 have been paid.

Chair Garrison stated the PEC liaison to the LESC is very important to the Commission because Commissioners need to be aware of what is happening with the LESC and what

is happening with the role of Charter Schools. Vice Chair Shearman will continue to represent the Commission; Commissioner Carr will be her backup. If they are unable to attend a meeting then they should notify Chair Garrison. Commissioner Pogna stated she would be happy to be designated as a backup as the other live a distance away. Chair Garrison appreciated her offer and she will also be a backup for the LESC.

Chair Garrison asked if there were any other changes to the Liaison roles. There were no further changes.

Chair Garrison stated he wanted Commissioner Catherine Smith to Chair the Charter School Committee and get a strategic plan going. He stated that he would like the Commission to be able to take a stance on charter school authorization to the LESC and LFC. These are reports that would be done during a Commission meeting.

Commissioner Smith appreciated the presence of the LESC and LFC and said the loss of Paula Tackett at the Legislative Council will be greatly missed. She said Ms. Tackett's role with education has been important and appreciated and that the replacement will be very important.

Chair Garrison said one of the items that was missing on the charter school application is looking beyond the sole merits of the application. He said that a part of statute says that "we can deny an application if the application is otherwise contrary to the best interest of the charter schools projected students, the local community or the school district in its geographic boundaries the charter schools applies to operate." He said that he likens this to a business plan. When looking at the community, the next step is to identify the Commissioner's district, the charter school environment, and the difference in each district. He said that he would like the Commissioners to go out to the communities where the charter schools are located and get input. He would like to take the next step and identify the effects on the community and look closely at this.

13. REQUEST FOR A PEC RETREAT ON CHARTER SCHOOLS

Dr. Duran said that he was requesting a PEC retreat as a follow-up on the NASCA report on charter school authorization. In 2007 a Strategic plan was developed by the Commission and by the PED. He will schedule a meeting with NASCA to review the strategic guiding principles, quality authorization and guidance on review of new charter applications. NASCA will be available for one day during the week of May 24-27. There will be another retreat June 11th. Several Commissioners discussed whether they would be available on Wednesday, May 26, 2010 the date suggested by Dr. Duran. Dr. Duran gave a chronology of dates that are important to the charter school application process. The Commissioners discussed dates that would work and NASCA would be able to attend. Chair Garrison stated that May 26th would be a better

date, to go with it, and the meeting will be held in Albuquerque. The PEC meeting scheduled for June 11th will stay as is.

14. PEC COMMENTS

a. NASBE Issues

Chair Garrison spoke on this earlier.

c. PEC Comments and Requests

Ms. Shearman thanked everyone for changing the date for this meeting.

Commissioner Gant wanted to address a comment made earlier looking at community. The PEC which means Public Education Commission not Public Charter Schools, and our mission is for education for all schools. He reported on GRT money received and the benefit of those funds to the district. There was a school bus issue in Las Cruces where the company wanted to pull all the buses last month. He said losing a bus company because their profit margin is not large enough has a tremendous impact on the school district.

Commissioner Pogna stated that she will not be at the June 11th meeting because of her granddaughter's graduation.

Commissioner Carr asked to speak to General Counsel about his role if the Secretary consults with the Commission on the Taos School Board issue.

Ms. Price stated that the increase in the five year graduation rate showed that there were major increases in the graduation rates of the Native American and African American and students with disabilities. The Native Americans made the greatest increase from 48.8% to 59.7%. Commissioner Price said that her personal assignment will be to send a card of thanks and congratulations to all schools on the reservations.

d. Future meetings

Chair Garrison stated that he really was not willing to revisit the dates because of the changes that can come up. He wanted to stick with the June 11th date. Dr. Duran asked where the Commission wanted to meet for the June 11th meeting. The meeting will be in Albuquerque.

15. ADJOURN

Commissioner Price made a motion to adjourn the meeting. It was seconded by Commissioner Pogna. The motion carried unanimously.