

PUBLIC EDUCATION COMMISSION
MINUTES
APRIL 4, 2008

1. Call to Order

Chairperson Smith called the meeting to order at 12:07pm at the New Mexico Activities Association Conference Room, 6600 Palomas NE, Albuquerque, NM.

2. Roll Call

Secretary Millie Pogna conducted the roll as follows:

M. Andrew Garrison, Member, District 1, Albuquerque
Mrs. Millie Pogna, Member, District 2, Albuquerque
Ms. Kathryn (Kitty) Krivitzky, Member, District 3, Albuquerque
Ms. Aileen R. Garcia, Member, District 4, Santa Fe, absent, family emergency
Ms. Catherine M. Smith, Vice-Chair, District 6, Los Lunas
Mr. Eugene Gant, Member, District 7, Las Cruces
Mr. Dennis James Roch, Chair, District 9, Texico
Ms. Midge Graham, Member, District 10, Des Moines
Ms. Nancy Bowles, Member, District 8, Roswell (will be sworn in today)
Ms. Mavis Price, Member, District 5, Gallup, absent, ill

3. Pledge of Allegiance and Salute to New Mexico Flag

Chairperson Smith stated that she would dispense with this item as there was not a flag present.

4. Approval of Agenda

Commissioner Roch moved to approve the agenda. Commissioner Pogna seconded the motion. The motion carried unanimously.

5. Approval of Minutes (March 7, 2008)

Commissioner Garrison had a correction on page 8 for the Healthier Way, should be change to New Mexico Alliance for Health, Physical Education, Recreation and Dance of which he is Vice President and the Chair of Healthier Weight Council.

Chairperson Smith asked that when the vote is not unanimous and state who voted yea and who voted nay and asked that they hold their hand up so the records can reflect how each commissioner voted.

Commissioner Garrison had a correction on page 4, letter B. Charter Schools, after number 1 it states "Commissioner Garrison moved to approve the Charter

Application and Commissioner Garrison seconded the motion. Commissioner Roch stated that it was a Charter School Sub-committee motion and did not require a second.

Commissioner Roch moved approved the minutes as corrected. Commissioner Graham seconded the motion. The motion carried unanimously.

Commissioner Roch said that the district he belongs to is Tukumcari not Texico at the top of the page.

6. Open Forum

This item will be heard at 1:30pm as stated in the Agenda.

No one was present to address the Commission.

7. Charter School Renewal Kit

Dr. Duran stated that the workshop today was spent looking at the Renewal Kit page for page and corrected some wording and grammar. He said that if there were questions or comments he would answer them at this time. There were not questions or comments.

Dr. Duran stated that the Kit is designed to be informative for the Charters on the renewal process. The kit will include an explanation of the law so that they have a reference to revoke or not renew on. It also gives the applicant an opportunity to give a progress report required by law. The progress report has been divided up each section of the progress report for information and included in the back a monitoring process so that CSB will collect information and data. It is hoped that the monitoring tool will support the work for State Charter Schools and also help the school districts in collecting yearly progress information on each of the schools. The entire package will not exceed 100 pages and CSB will do investigative work in order to give the Commission all the supported information necessary to make a decision. There was discussion at the workshop about the Initial Application process and wanted to remind the Commissioners that they will need a quorum at the August 25-29 at different locations in New Mexico. Dr. Garcia stated that a lot of thought and work went into developing the Tool Kit and would be a good framework to share with the other authorizers. The interesting thing about the law, the district authorizers are required to have matrix and require our approval to authorize the Charter. The quality control is not there to the level that she believed through the leadership of Dr. Duran and his department in helping the Commission to be quality authorizer and believes that this a great foundation for that work. Chairperson Smith stated that Dr. Duran said that National Association of Charter Schools Authorizers (NACSA) has list us as exemplary state. Dr. Garcia stated that recognition at Spring Budget Workshops that brings up to date the 2007 recognitions in terms of where New Mexico is and

where we need to improve. She congratulated Dr. Duran and staff. Commissioner Roch stated that they were sharing with local school boards and superintendents some of the authorizing practices developed in the first round and that they are improving upon for the successive rounds. There are plans to present Dr. Duran and his staff and perhaps one or two commissioners to represent the Commission to present before local school board association, the Law Institute, and to the Coalition of School Administrators Summer Workshop at the PED to try to provide those exemplary practices.

Commissioner Garrison moved that the substance of the Renewal Application Kit be approved and that the Charter Schools Division is authorized to make appropriate format changes. Commissioner Pogna seconded the motion. The motion carried unanimously.

8. Commissioners at Appeal Hearings

Chairperson Smith stated that this request by Commissioner Aileen Garcia and that is in response to Dr. Garcia. Dr. Garcia talked about the difficulty that she experienced in the appeal and in the hearing and the fact that there were no PEC Commissioners at the hearings. The commissioners thought that they were doing their duty by remaining absent from the hearings.

Dr. Garcia stated this is an evolving process and as we move forward and the commission has learned a lot by experiencing that as she has also learned a lot. She said that in going through that and the questions that she had, that you can not capture the decision from just reading the decision and order that General Counsel takes the concepts and what happens and she discusses with counsel and how she feels her decision and how she wants it to be. She stated that it does not capture the flavor the numbers of questions and the line of reasoning that goes into making that decision. Dr. García said that there are a lot of questions asked in order for her to make her decision. Recommendations by Charter Schools Bureau to the PEC does not always make the deciding factor in Dr. Garcia's appeal decision. She has to review all the pros and cons and it is twofold. If she has questions of the division in terms of their recommendation of what the rational was and is it contrary to what the Commission decided, it is best to have the Commission responding for the Commission responding in the process for her to make the decision she would like to have all parties present. She deferred to Rod Ventura, Assistant General Counsel who asked if there were any questions he could answer.

Mr. Gant stated that in the time of State Board of Education were allowed to give their input as to why they made the decision they did, this will be a continuation of communication between all parties concerned.

Chairperson Smith stated that under item 11 there are possible motions that can be made.

Commissioner Gant moved that the PEC adopt a policy of having one or more of its commissioner present at every charter school appeal hearing before the Secretary of Education held pursuant to 22-8B-7 NMSA to act as a representative of the Public Education Commission and to answer any question the Secretary may have. The motion was seconded by Commissioner Bowles.

Commissioner Roch stated that he believed that this item is very problematic. He said that it is a little bit simplistic that even in a split decision that there is a majority voice and a minority voice and top represent the voice of the commission there would have to be a full meeting. Commissioner Roch stated that while he appreciated Commissioner Gants reference to the previous State Board and the LEA and their giving reason to denying appeal. He stated that having a few members present at a hearing may not give the full representation of the entire Commission. Commissioner Roch said that with all due respect he appreciated the Secretary's recommendation and order of suggestion to the Commission, but felt that a board or a commissioner or several commissioners represent the commission. He further stated that the representation is a representation of the commission's action and not a representation of individual commissioner's thoughts and to have some commissioners present to ask questions of their thoughts might be disingenuous to the action of the commission. Dr. Garcia stated that she had issues with a Bureau expressing the interest of the Commission and any misinterpretation because the advised the Commission on their recommendation. Dr. Garcia deferred to general counsel because she believed it to be problematic. Rod Ventura, Assistant General Counsel wanted to address some issues that were raised on the Open Meeting Act and would not violate the Open Meetings Act as long as there is not a quorum that is together in a public place, not formulating public policy, not discussing public business, and not taking any action this body has authority to take. He further stated that without having a quorum present the Open Meetings Act is not relevant. The commissioners present could answer questions presented to them and participate. Commissioner Roch brought up that in order to have the voices heard of the commission and they would all want to participate and that would constitute a full meeting. Dr. Garcia said that having a few commissioners present to summarize what the group of people is thinking, as they do now so she does not think that, that in itself is different. She feels with the training the Commissioners have and the work that the division does, believes that is why there was not many appeals.

Chairperson Smith suggested a possible change to the motion to read: Adoptive policy have one or more of its commissioners present of having the Chair or his/her designee present.

Chairperson Smith said that there is a motion made and asked if there were further motions or questions.

Secretary Pogna conducted the roll call:

Bowles - yes
Gant - yes
Krivitzky – no
Graham - yes
Roch - no
Garrison - yes
Pogna - no
Smith - yes

The motion carried as originally motioned.

9. School Improvement Report

Dr. Sheila Hyde who would be presenting is stuck in traffic and unable to be present at the meeting.

10. Secretary of Education Comments

Secretary Garcia said that she was “a little cranky” when reading the paper this morning and although she always makes herself available to the press. The front page news read NM ranked on the bottom in writing skills. Ranked with Hawaii, Nevada, Mississippi and we show that our students are ranking 85% proficient in that particular assessment but they still rank us low. We are not making the progress we would like and the emphasis of reading and math and have not been measuring and reporting competency in writing and will not be able to do that until next year. She feels that the writing skills have deteriorated even in adults. Writing has changes and with computers with spell check and text messaging has become the lexicon of writing. The handout will give the Commissioners some information on the progress in New Mexico.

Dr. Garcia said that what was going to be presented today was the approach that is being taken on School Improvement, what we have learned being in the school improvement process, philosophical shifts, providing a menu of choices rather than telling the district – you will do this. Looking at the guidance from the government is rather ambiguous and the approach that we have taken was a little more prescriptive and really not working. We are meeting our requirements under federal and state statute and having a more collaborative tone. She felt that the communication was not the sentiment that we wanted in working with our schools.

Dr. Garcia stated that another major change is that AYP is not telling us about schools and when schools were moving from one designation to the next, even when there was other data that would demonstrate progress, it was not used as

evidence in talking about intervention or how prescriptive we would be. We are going to allow for that one.

She also talked about applying for the flexibility component and the federal government felt that it would be best used as an amendment to our workbook that we didn't quite fit the definition. We submitted in both categories because she didn't want it to come across the New Mexico didn't try, even though they told us it wouldn't be accept. We are hoping to get the amendment to the workbook.

Dr. Garcia said that AYP is pass/fail, it could have been attendance and is unfair how it mischaracterized with our communities that our schools are failing. She felt that if you loose one factor you loose the whole thing and the press shows in headlines 2,556 schools fail (we do not have that many schools) but it gives the impression that we are not doing our jobs. The USDE Secretary is using her regulatory authority to be able to allow for differentiated accountability. She explained that it is still pass/fail AYP, it's differentiated in school improvement in your degrees in how far you are into school improvement. She said that we are going to apply for it and it is something that she hopes after the election is going to change because fairness and funding are main issues that we have struggled with NCLB. Former state boards and Legislature have always had a level of accountability they wanted for us. How about fairness in how we label our schools and she feels NCLB has not delivered that. We have submitted the growth with a deadline of April 19th she believes, but our intent is to apply for any level of flexibility that we could get to give our state the benefit. Our accountability plan and how we deal with that is really important and input from all aspects help her make her decision.

Dr. García wanted to present to the Commission the presentation at Spring Budget Workshop was different and she wanted to emphasize the national information particularly human resource investment and what it means in gross domestic productivity and what it could mean for the economy in New Mexico. There are interesting international examples is what happens when you invest education and health. She stated that is was interesting what it can means for individual productivity from an economic perspective. Dr. Garcia is very excited about this and would be happy to present to the Commission.

11. PEC Comments

a. PEC Liaison Roles

Chairperson Smith presented the assignments for the Liaison Roles. See attached list.

Chairperson Smith moved to submit the recommendations to Dr. Garcia. The motion carried unanimously.

Dr. Garcia asked if some switching around as there needs to be

representation on CHE and get date for commission meetings to liaison.

The Council on Excellence and Equity will need a representation and is not too time consuming.

The New Mexico Retiree Health Care and the New Mexico Educational Retirement Board will need to have attendance and be aware of what is happening. Commissioner Roch offered to attend the ERB meetings. Commissioner Gant will attend the New Mexico Retiree Health Care.

Commissioner Graham moved to add to list of liaison and seconded by Vice Chair Garrison. The motion carried unanimously.

b. PEC Sub-Committee Assignments

Chairperson Smith, Vice Chair Garrison, Secretary Pogna made a decision on these Roles.

Charter School Subcommittee

Commissioner Roch and Commissioner Garcia. Commissioner Garcia will chair this committee.

Strategic Plan – Commissioner Krivitzky, Chair, Commissioner Price, Commissioner Pogna

Vocational Subcommittee – Commissioner Gant, Commissioner Graham and Commissioner Bowles.

c. Future Meetings

Today's meeting alleviated having a meeting on May 9th. Secretary Pogna moved to have a June 27th meeting in Albuq at NMAA if space permits and seconded by Commissioner Roch. The motion carried unanimously.

Ms. Friedman has a request from the National Youth Science Camp they have selected their delegates and want the delegates recognized at the next meeting on June 27th. Chairperson Smith said that can be placed on the agenda.

Chairperson Smith state that she had a memo Charter School Subcommittee to make recommendations on the statement of material violations which will be an action item at the June 27th meeting.

Commissioner Graham said that at the last meeting requested recognition of the Video Production students from Cimarron to be item at the June 27th meeting. She will be checking with the teacher of the group and notify Ms. Friedman if that will work for the students and teacher.

Ms Friedman said that in speaking with Dr. Duran it is possible that the next meeting can be held at the CNM building for sub committee meetings and regular meeting.

Ms. Friedman asked about the motion passed at last meeting regarding invocations at meetings. Chairperson Smith stated that in light of the motion passed at the last meeting, she asked for volunteers to conduct the invocation at the future meetings. A sheet was passed around for Commissioners to volunteers to do the invocation for future meetings.

****Commissioner Roch suggested that a letter of appreciation to NMAA for use of facility.

12. Adjourn

Chairperson entertained a motion to adjourn the meeting. Commissioner Roch and seconded by Commissioner Garrison. The motion passed unanimously. The meeting adjourned at 1:33pm.