

U.S. COMMISSION ON CIVIL RIGHTS

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TELEPHONIC MEETING

+ + + + +

Friday, February 26, 2010

+ + + + +

The Commission convened by
teleconference at 11:00 a.m. Eastern Standard
Time, Gerald A. Reynolds, Chairman, presiding.

PRESENT:

GERALD A. REYNOLDS, Chairman

TODD F. GAZIANO, Commissioner

GAIL L. HERIOT, Commissioner

PETER N. KIRSANOW, Commissioner

ASHLEY L. TAYLOR, JR., Commissioner

MICHAEL YAKI, Commissioner

MARTIN DANNENFELSER, Staff Director

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STAFF PRESENT:

DAVID BLACKWOOD, General Counsel

CHRISTOPHER BYRNES, Parliamentarian

PAMELA A. DUNSTON, Chief, ASCD

MAHA JWEIED

ROBERT LERNER, Asst. Deputy Staff Director

EMMA MONROIG, Solicitor

LENORE OSTROWSKY

AUDREY WRIGHT

COMMISSIONER ASSISTANTS PRESENT:

NICHOLAS COLTEN

TIM FAY

DOMINIQUE LUDVIGSON

JOHN MARTIN

ALISON SCHMAUCH

KIMBERLY SCHULD

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P R O C E E D I N G S

(11:08 a.m.)

CHAIRMAN REYNOLDS: This meeting will come to order. This is a telephonic meeting of the U.S. Commission on Civil Rights. It is 11:09 a.m., Eastern Standard Time, on February 26th, 2010.

Commissioners are participating from different locations. This is a teleconference, once again. I will call the name of each Commissioner in order to determine if there's a quorum to hold the meeting.

Vice Chair Thernstrom.

(No response.)

CHAIRMAN REYNOLDS: Commissioner Gaziano.

COMMISSIONER GAZIANO: Here.

CHAIRMAN REYNOLDS: Commissioner Kirsanow.

COMMISSIONER KIRSANOW: Here.

CHAIRMAN REYNOLDS: Commissioner Heriot.

COMMISSIONER HERIOT: Here.

CHAIRMAN REYNOLDS: Commissioner Melendez.

(No response.)

CHAIRMAN REYNOLDS: Commissioner Yaki.

(No response.)

CHAIRMAN REYNOLDS: Commissioner Taylor.

COMMISSIONER TAYLOR: Here.

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1 CHAIRMAN REYNOLDS: Okay. With me that
2 makes five. We have a quorum.

3 Is the Staff Director present?

4 STAFF DIRECTOR DANNENFELSER: Present.

5 CHAIRMAN REYNOLDS: Is the court reporter
6 on the line?

7 THE REPORTER: I apologize. Chairman, I
8 am on the line. If you call for me, it will take me a
9 few minutes to break into the system, but I am here.

10 CHAIRMAN REYNOLDS: Okay. I hope you
11 meant a few seconds.

12 THE REPORTER: That's correct. We're
13 talking about five to 15 seconds.

14 CHAIRMAN REYNOLDS: Okay. All right. We
15 have a quorum. So the meeting will come to order.

16 If a Commissioner wants to make a
17 statement, please identify yourself first. Whenever
18 it's necessary to take a vote, I will call out the
19 name of each Commissioner. The Commissioner should
20 answer yes, no or abstain. After the voting is
21 concluded, I will read out how each of you has voted
22 in order to ensure that the tally is correct.

23 Before I begin, I'd like to note that as I
24 had mentioned on January 29th, while we were waiting
25 to get a quorum for the telephonic business meeting, I

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1 asked the Staff Director to prepare background
2 information and monitor the developments arising out
3 of what appears to have been a racially motivated
4 attack of Asian students in South Philadelphia High
5 School in December of 2009.

6 The Pennsylvania Human Relations
7 Commission has launched an investigation of the
8 incident and as of January 29th, 2010, a complaint has
9 been filed against the school district by the
10 Educational Opportunity Section of the Civil Rights
11 Division at the Department of Justice.

12 The school district also commissioned its
13 own investigation, which was conducted by a retired
14 federal judge. His report was issued earlier this
15 week. I intend to place this item on the agenda for
16 our March 12th business meeting. I'd like the staff
17 to provide an update detailing the events surrounding
18 this case and to brief us on the procedural posture of
19 this matter.

20 COMMISSIONER KIRSANOW: Mr. Chairman,
21 Kirsanow here.

22 Is it possible for us to get a copy of the
23 report of the investigator appointed by the school
24 district?

25 STAFF DIRECTOR DANNENFELSER: Yes.

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1 CHAIRMAN REYNOLDS: Mr. Staff Director,
2 was that a yes?

3 STAFF DIRECTOR DANNENFELSER: Affirmative.
4 Yes, we can get it to Commissioners.

5 CHAIRMAN REYNOLDS: Great. Thank you.

6 Okay. Next up is the approval of the
7 agenda.

8 I. APPROVAL OF AGENDA

9 CHAIRMAN REYNOLDS: I would like to move
10 to amend the agenda to put the discussion of the
11 update on the status of the 2010 enforcement report
12 first under Program Planning before our consideration
13 of the illegal immigration report and approve the
14 agenda as amended.

15 Do I have a second?

16 COMMISSIONER KIRSANOW: Second. Kirsanow.

17 CHAIRMAN REYNOLDS: Discussion?

18 (No response.)

19 CHAIRMAN REYNOLDS: Bear with me.

20 Commissioner Gaziano, how do you vote?

21 COMMISSIONER GAZIANO: Yes.

22 CHAIRMAN REYNOLDS: Commissioner Kirsanow?

23 COMMISSIONER KIRSANOW: Aye.

24 CHAIRMAN REYNOLDS: Commissioner Heriot.

25 COMMISSIONER HERIOT: Yes.

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1 CHAIRMAN REYNOLDS: Commissioner Taylor.
2 Commissioner Taylor.

3 COMMISSIONER TAYLOR: Yes. I'm sorry. I
4 was on mute so you all wouldn't get the background
5 noise.

6 CHAIRMAN REYNOLDS: Okay, and I vote in
7 favor of the motion. The motion passes unanimously.

8 Okay. The next item in the Program
9 Planning is an update on the status of the 2010
10 enforcement project.

11 II. PROGRAM PLANNING

12 A. STATUS OF 2010 ENFORCEMENT PROJECT

13 CHAIRMAN REYNOLDS: Because our hearing
14 that was scheduled for February 12th had to be
15 postponed due to inclement weather, we need to discuss
16 a new hearing date for this hearing. On Tuesday, I
17 directed my Special Assistant, Ms. Ludvigson, to poll
18 all Commissioners regarding their availability for a
19 rescheduled hearing.

20 The dates that were thrown out were April
21 9th, 16th, 23rd, and the 30th.

22 Did someone join us?

23 (No response.)

24 CHAIRMAN REYNOLDS: At the same time the
25 General Counsel was in the process of assessing the

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1 witnesses' availability to participate in a hearing on
2 those dates. Based on the feedback that we received
3 from both Commissioners and witnesses, it appears that
4 Friday, April 23rd is the date for which we will have
5 a critical mass of both Commissioners and witnesses.

6 I move that the Commission authorize me to
7 reschedule the hearing date for the New Black Panther
8 Party investigation for April 23rd, or if the
9 witnesses' circumstances change on such Friday or if
10 circumstances changes on such Friday in April that
11 would secure the participation of a critical mass of
12 both witnesses and Commissioners.

13 Is there a second?

14 COMMISSIONER HERIOT: Second.

15 COMMISSIONER KIRSANOW: Kirsanow. Second.

16 CHAIRMAN REYNOLDS: Discussion?

17 COMMISSIONER GAZIANO: I think you already
18 have that authority from a previous, but I think it's
19 not unreasonable to reconfirm authority under the
20 circumstances.

21 COMMISSIONER HERIOT: Yeah, I agree that
22 the Chairman already has this authority and that this
23 is unnecessary, but let's just do it and get through
24 with it.

25 CHAIRMAN REYNOLDS: Okay.

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1 COMMISSIONER GAZIANO: I would suggest
2 that when we re-notice whatever date, that we make
3 sure this time that the notice -- and this is probably
4 true for anything similar -- that we notice it for
5 such date and if that date, you know, can't be met for
6 some reason, such other date so that -- in other
7 words, the notice itself contains the contingency that
8 a postponement doesn't need to be re-noticed.

9 COMMISSIONER HERIOT: Yeah. It also needs
10 to be noticed such that if the hearing last longer
11 than the day, that it can be continued to a later date
12 without completely starting from scratch. You know,
13 this should be routine for all the notices that we do.

14 CHAIRMAN REYNOLDS: Additional discussion?

15 (No response.)

16 CHAIRMAN REYNOLDS: Commissioner Gaziano,
17 how do you vote?

18 COMMISSIONER GAZIANO: Yes.

19 CHAIRMAN REYNOLDS: Commissioner Kirsanow?

20 COMMISSIONER KIRSANOW: Aye.

21 CHAIRMAN REYNOLDS: Commissioner Heriot.

22 COMMISSIONER HERIOT: Yes.

23 CHAIRMAN REYNOLDS: Commissioner Taylor.

24 COMMISSIONER TAYLOR: Yes.

25 CHAIRMAN REYNOLDS: -- for the motion.

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1 The motion passes.

2 At this point, the court reporter -- I
3 need to speak with the court reporter.

4 THE REPORTER: Yes, Mr. Chairman.

5 CHAIRMAN REYNOLDS: I just heard a beep.
6 Did someone join the call?

7 THE REPORTER: I do not know. I wouldn't
8 have information one way or the other.

9 CHAIRMAN REYNOLDS: So you cannot --

10 COMMISSIONER GAZIANO: Could the operator
11 assist you, Mr. Chairman?

12 COMMISSIONER HERIOT: The operator.

13 CHAIRMAN REYNOLDS: Well, that's who I
14 thought I was speaking to.

15 THE REPORTER: You had asked for the court
16 reporter.

17 THE OPERATOR: No, sir. Hi, this Jean,
18 the operator. I'm not sure exactly where the beep
19 came from. It could have come from one of the open
20 lines. I'm not sure.

21 CHAIRMAN REYNOLDS: Okay.

22 THE OPERATOR: We have several people's
23 lines that are open.

24 (Discussion was held off the record.)

25 (Commissioner Yaki joined the meeting.)

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1 CHAIRMAN REYNOLDS: All right. At this
2 point, Mr. General Counsel, do you have any other
3 updates to provide on the project?

4 COMMISSIONER YAKI: I would like to have
5 the updates repeated because I was unable to get in
6 despite the fact I was actually on the line.

7 CHAIRMAN REYNOLDS: We've had two votes.
8 The update that I referred to would be the first.

9 Mr. General Counsel, do you have anything
10 to add in terms of updates regarding the project?

11 MR. BLACKWOOD: This is David Blackwood.

12 No. Now that the date has been set,
13 however, I hope any update would be provided on our
14 next meeting on the 22nd.

15 COMMISSIONER YAKI: I have a question for
16 the General Counsel. Commissioner Yaki.

17 MR. BLACKWOOD: Yes, sir.

18 COMMISSIONER YAKI: Aside from -- as I
19 understand it, we are not disclosing witnesses who we
20 have subpoenaed, but in the past we have received
21 updates about witnesses who we have invited. Are
22 there any additional witnesses who we have invited who
23 are not subject to a subpoena that are different from
24 who were invited to the previously canceled hearing?

25 MR. BLACKWOOD: Not at this point, no.

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1 And I will say that the biggest pending issue is
2 whether the Department of Justice will allow its
3 personnel to testify. I have made four separate
4 requests to the department in that regard, and I have
5 yet to receive a substantive response.

6 COMMISSIONER YAKI: Okay, and with regard
7 to -- except for the Department of Justice witnesses
8 and excepting those subpoenaed witnesses who we will
9 not disclose, are there additional subpoenaed
10 witnesses whose names we will not disclose that are
11 different than from the witnesses who were scheduled
12 to appear at the February hearing?

13 MR. BLACKWOOD: Not at this time. I will
14 say that there are others that we have in Philadelphia
15 invited. None of those people indicated that they
16 wish to attend.

17 COMMISSIONER YAKI: Okay, and so what I'm
18 gathering at this point, that aside from the DOJ
19 witnesses with whom you are still having discussions
20 with DOJ, aside from the previously subpoenaed
21 witnesses who would agree to appear and aside from the
22 previously subpoenaed witnesses who indicated they did
23 not or witnesses from -- scratch that -- aside from
24 the witnesses from Philadelphia who indicated they did
25 not wish to appear, you are saying that there are not

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1 any other additional invited witnesses apart from
2 those who had previously been invited to appear at the
3 February hearing.

4 MR. BLACKWOOD: That is correct.

5 COMMISSIONER YAKI: Thank you.

6 COMMISSIONER GAZIANO: Mr. Chair, this is
7 Todd.

8 CHAIRMAN REYNOLDS: Yes.

9 COMMISSIONER GAZIANO: I think if we're
10 setting the hearing some time middle to the end of
11 April, we need to be clear to preserve the right to
12 change the -- add witnesses and potentially change
13 witnesses. So this is most in response to
14 Commissioner Yaki's question. If I understand, it was
15 just asking the General Counsel whether currently we
16 have invitations out that are different, and I
17 wouldn't think so since we hadn't decided on the date
18 of the hearing, but I might recommend or urge that we
19 change some of the hearing given the calendar and our
20 responsibility to try to get at least one of the
21 statutory reports completed by September.

22 COMMISSIONER YAKI: This is Commissioner
23 Yaki.

24 I'm not suggesting anything to the
25 contrary, Commissioner Gaziano. I was just trying to

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1 figure out the status of the witness list as it
2 occurred, as it was presented today.

3 I would hope that the General Counsel
4 would follow, as has been the practice in all previous
5 briefings, that to the extent that the potential
6 witness list is changed, added or modified, that
7 we'll receive regular and timely updates on that,
8 subject, of course, to the disclosure restrictions on
9 those who have been subpoenaed.

10 CHAIRMAN REYNOLDS: Commissioner Yaki,
11 that is correct.

12 COMMISSIONER YAKI: Okay.

13 CHAIRMAN REYNOLDS: That is how we have
14 proceeded in the past and that's how we will proceed
15 with respect to this hearing.

16 COMMISSIONER YAKI: I appreciate that. I
17 would like to say for the record that I apologize for
18 being a little testy, but my flight back from D.C.
19 last night was delayed for two hours because of wind,
20 and I didn't get in until about three o'clock this
21 morning, West Coast time.

22 CHAIRMAN REYNOLDS: It's forgotten.

23 Okay. Next up is the approval of the
24 findings and recommendations for the impact of illegal
25 immigration on the wages and employment of black

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1 workers.

2 II. PROGRAM PLANNING

3 B. APPROVAL OF FINDINGS AND RECOMMENDATIONS

4 RE. IMPACT OF ILLEGAL IMMIGRATION ON WAGES AND
5 EMPLOYMENT OF BLACK WORKERS

6 CHAIRMAN REYNOLDS: Okay. At the January
7 15th, 2010 meeting, the Commission approved Part A of
8 this report. At the request of Commissioner Kirsanow,
9 the Commission postpones consideration of Part B for a
10 later meeting so Commissioners could have additional
11 time to consider amended findings and recommendations
12 that he would circulate before the vote.

13 These amended findings and recommendations
14 were circulated on January 22nd of 2010 and
15 recirculated with the meeting materials that you
16 should have received on February 18th with a
17 substitute version proposed by Commissioner Kirsanow.

18 I move that the Commission approve for
19 publication the Kirsanow substitute findings and
20 recommendations along with Part A of the report which
21 was approved at a previous meeting, any concurring and
22 dissenting statements submitted by any Commissioner by
23 March 30th, with rebuttals to be submitted by any
24 Commissioner by April 30th. Under this motion, the
25 Commission would vote individually on each finding and

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1 recommendation. Those findings and recommendations
2 receiving the majority of votes would be included in
3 the final report with a vote tally and a sentence
4 explaining any opposition for that vote.

5 Is there a second?

6 COMMISSIONER KIRSANOW: Kirsanow. Second.

7 CHAIRMAN REYNOLDS: Discussion.

8 COMMISSIONER YAKI: Yeah, this is
9 Commissioner Yaki.

10 I'd just like Commissioner Kirsanow to
11 explain his changes.

12 COMMISSIONER KIRSANOW: Yeah.
13 Commissioner Yaki, many of these changes were as a
14 result of conferencing with other Commissioners,
15 specifically Commissioner Heriot and Commissioner
16 Gaziano, who included a few edits to my amendment or
17 substitute amendment.

18 Some are stylistic. I eliminated, for
19 example, however, many of, if not all of, the
20 recommendations but one because I thought that, in
21 consultation with Commissioner Heriot, that it would
22 be -- the findings and recommendations would be --
23 would be more taut having done so and more consistent
24 with what was reflected in terms of evidence adduced
25 at the hearing.

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1 CHAIRMAN REYNOLDS: Excuse me. Excuse me,
2 Commissioner Kirsanow. Do you have the findings and
3 recommendations in front of you?

4 COMMISSIONER KIRSANOW: I do.

5 CHAIRMAN REYNOLDS: I'd like to suggest
6 that you just read these findings into the record,
7 discuss any changes that were made, and then move for
8 a vote.

9 COMMISSIONER KIRSANOW: I'll do so.

10 Finding No. 1, there was one change
11 recommended by Commissioner Gaziano, and it reads as
12 follows: "there has been a significant," as opposed
13 to "dramatic," "rise in U.S. immigration, both legal
14 and illegal," comma, "over the past four decades,"
15 period. "Immigration workers now make up
16 approximately one-seventh of the American work force,"
17 comma, "and reliable estimates of the legal workers
18 account for one-third of the total immigrants now in
19 the U.S. (Hanson statement, page 25; Briggs statement,
20 page 36)."

21 I'll dispense with the parens from her on
22 in.

23 The Finding No. 2 is, "Illegal
24 immigration," and again, another Gaziano --

25 COMMISSIONER YAKI: I'm sorry. Where? I

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1 can't -- that change isn't in the Kirsanow substitute
2 that I see. Hang on.

3 COMMISSIONER GAZIANO: Is it possible --
4 this is Todd Gaziano -- is it possible, Pete, that you
5 could e-mail the version with some of these changes to
6 all Commissioners?

7 COMMISSIONER KIRSANOW: I can.

8 COMMISSIONER YAKI: We only got the
9 Kirsanow substitute, the Kirsanow edits, the staff
10 proposal, and the staff proposal. We do not have the
11 Kirsanow substitute with the Gaziano and Heriot edits.

12 COMMISSIONER GAZIANO: Yeah, I always
13 prefer to have --

14 COMMISSIONER KIRSANOW: I'm in the process
15 of doing so.

16 COMMISSIONER GAZIANO: Okay.

17 COMMISSIONER KIRSANOW: Right now.

18 COMMISSIONER GAZIANO: And unless
19 Commissioner Yaki wants to know who suggested what to
20 you, I certainly don't care one way or the other
21 whether my changes are identi -- it might just go
22 quicker if you read what you're proposing.

23 COMMISSIONER KIRSANOW: Sure.

24 COMMISSIONER YAKI: I'd like to know.

25 CHAIRMAN REYNOLDS: Okay. Commissioner

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1 Kirsanow, could you just read it into the record and
2 identify the changes that were made, and after that's
3 done we can move to vote on the each finding.

4 COMMISSIONER HERIOT: I actually have a
5 suggestion for Finding No. 1 that didn't make it into
6 this. Do you want me to hold that or should we talk
7 about it now?

8 CHAIRMAN REYNOLDS: Okay. Pete are there
9 changes that you'd like to identify with respect to
10 Finding No. 1?

11 COMMISSIONER KIRSANOW: The only change in
12 Finding No. 1 from what I believe you currently have
13 in front of you is the word "dramatic" in the first
14 sentence is changed to "significant" at the
15 recommendation of Commissioner Gaziano.

16 CHAIRMAN REYNOLDS: Okay. Commissioner
17 Heriot.

18 COMMISSIONER HERIOT: I just feel
19 uncomfortable with saying "reliable estimates" because
20 I don't think these numbers are crucial to what we're
21 doing here. I would much prefer if the second
22 sentence begins, "Experts at our briefing testified
23 that immigrant workers now make up approximately
24 one-seventh of the American work force, and they
25 estimated that illegal workers account for one-third

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1 of total immigrants now in the U.S."

2 I don't see that we need to put the weight
3 of the Commission behind those numbers.

4 COMMISSIONER KIRSANOW: I don't have a
5 problem with that.

6 Commissioner Yaki, I tried e-mailing this
7 to you, but it bounced back. I'm not sure if I've got
8 --

9 COMMISSIONER YAKI: Michaeljyaki@aol.com.

10 COMMISSIONER KIRSANOW: Okay. Let me do
11 that.

12 CHAIRMAN REYNOLDS: Okay. So,
13 Commissioner Kirsanow, you accepted Commissioner
14 Heriot's revisions as a friendly amendment.

15 COMMISSIONER KIRSANOW: Yes.

16 CHAIRMAN REYNOLDS: As well as the change
17 offered by Commissioner Gaziano.

18 COMMISSIONER KIRSANOW: Yes.

19 CHAIRMAN REYNOLDS: Okay. Commissioner
20 Yaki, are you able to discuss or do you have any
21 comments regarding those changes or any other
22 comments?

23 COMMISSIONER YAKI: No, I'll save my
24 comments for the end.

25 CHAIRMAN REYNOLDS: Okay.

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1 COMMISSIONER GAZIANO: Can we just vote on
2 them one at a time then as Commissioner Kirsanow reads
3 them?

4 CHAIRMAN REYNOLDS: That's what I had
5 suggested.

6 COMMISSIONER GAZIANO: Okay.

7 CHAIRMAN REYNOLDS: Okay. If we are done
8 with discussion, it's time for a vote.

9 Commissioner Gaziano, how do you vote?

10 COMMISSIONER GAZIANO: Yes.

11 CHAIRMAN REYNOLDS: Commissioner Kirsanow?

12 COMMISSIONER KIRSANOW: Yes.

13 CHAIRMAN REYNOLDS: Commissioner Heriot.

14 COMMISSIONER HERIOT: Yes.

15 CHAIRMAN REYNOLDS: Commissioner Taylor.
16 Commissioner Taylor.

17 (No response.)

18 CHAIRMAN REYNOLDS: Commissioner Yaki.

19 COMMISSIONER YAKI: No.

20 CHAIRMAN REYNOLDS: Commissioner Taylor.

21 (No response.)

22 CHAIRMAN REYNOLDS: Okay. I guess he's on
23 a bathroom break.

24 Next up.

25 COMMISSIONER HERIOT: Did you vote, Gerry?

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1 CHAIRMAN REYNOLDS: Oh, I'm sorry. Yes, I
2 vote in favor of the motion. So Commissioner Yaki
3 voted no. Commissioner Taylor did not vote. The
4 remaining votes were in favor of the motion.

5 Commissioner Kirsanow.

6 COMMISSIONER KIRSANOW: Finding No. 2,
7 "illegal immigration to the United States in the
8 recent decades has," comma, "on average," comma,
9 "tended to increase the supply of low-skilled,
10 low-wage labor available in the U.S. market."

11 CHAIRMAN REYNOLDS: Comments?

12 COMMISSIONER GAZIANO: I believe the last
13 few words, what you sent me, "U.S. labor market."

14 COMMISSIONER HERIOT: We've now got the
15 United States and U.S. in there twice, and I don't
16 quite understand what "on average" and "tended."
17 What's the average we're talking about?

18 COMMISSIONER GAZIANO: Maybe we only need
19 one of those, but I don't think that all those -- that
20 was my suggestion -- all illegal immigration
21 necessarily is low skilled, and it might be from some
22 countries high skilled.

23 COMMISSIONER HERIOT: I agree with that,
24 but I don't think "on average" really conveys that. I
25 think that all you need is "tended."

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1 COMMISSIONER GAZIANO: Yeah, "tended to"
2 in that one is fine. So if you want to strike "on
3 average," I'm fine.

4 COMMISSIONER HERIOT: Strike "U.S."?

5 COMMISSIONER GAZIANO: Pardon?

6 COMMISSIONER HERIOT: Strike "U.S."?

7 COMMISSIONER GAZIANO: I think it's
8 helpful to say that we -- we're not generalizing
9 regarding immigration everywhere in the world.

10 COMMISSIONER HERIOT: Okay.

11 OPERATOR: Hello.

12 COMMISSIONER KIRSANOW: Hello.

13 OPERATOR: Hi. Excuse me, Mr. Chairman.
14 Commissioner Taylor has sent an e-mail saying he's on
15 the line but his mic has been cut off.

16 CHAIRMAN REYNOLDS: Okay, all right.
17 Okay. I will come up with a work-around.

18 So let's vote on Finding No. 2.
19 Commissioner Taylor, I will get to you in a moment.
20 But in any event, Commissioner Gaziano, how do you
21 vote?

22 COMMISSIONER GAZIANO: Yes.

23 CHAIRMAN REYNOLDS: Commissioner Kirsanow.

24 COMMISSIONER KIRSANOW: Yes.

25 CHAIRMAN REYNOLDS: Commissioner Heriot.

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1 COMMISSIONER HERIOT: Yes, on the
2 understanding that we've stricken the words "on
3 average."

4 CHAIRMAN REYNOLDS: Commissioner Yaki.

5 COMMISSIONER YAKI: No.

6 CHAIRMAN REYNOLDS: Okay. Until I get a
7 fix on Mr. Taylor he did not vote. I vote in favor of
8 it. The vote is the same, four votes in favor, one
9 against, and --

10 COMMISSIONER HERIOT: If Commissioner
11 Taylor is on the line, you have to give him the right
12 to vote.

13 CHAIRMAN REYNOLDS: Well, I haven't
14 figured out yet how to --

15 COMMISSIONER HERIOT: We can just reserve
16 his right to vote to when we can get his voice in, but
17 --

18 COMMISSIONER YAKI: Is he calling back in?

19 OPERATOR: He's on the line currently.

20 COMMISSIONER HERIOT: He's here now.

21 OPERATOR: He can't speak, but he can
22 hear.

23 CHAIRMAN REYNOLDS: Operator, is this
24 problem on his side or is this -- can you fix this
25 problem or does this have to do with the hardware that

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1 he's using?

2 COMMISSIONER GAZIANO: Did he unmute his
3 phone?

4 CHAIRMAN REYNOLDS: Well, I'm sure if that
5 was the case --

6 COMMISSIONER HERIOT: I'm sure he tried.
7 I think the question is whether it's his mute button
8 that's a problem or whether it's the call.

9 COMMISSIONER YAKI: Can you ask the
10 operator if he's on the line?

11 THE OPERATOR: And his name is?

12 CHAIRMAN REYNOLDS: Ashley Taylor.

13 THE OPERATOR: Ashley Taylor, okay. Hold
14 one moment, please.

15 COMMISSIONER HERIOT: He's going to call
16 in again.

17 OPERATOR: Okay. Hi.

18 COMMISSIONER HERIOT: Oh, he voted.
19 Gerry, he voted yes by e-mail.

20 COMMISSIONER GAZIANO: And I have an
21 e-mail from him that said, "I did unmute the phone. I
22 will call in again," and he has also e-mailed, "I vote
23 yes."

24 OPERATOR: Okay, and I just opened up
25 Ashley Taylor's line.

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1 COMMISSIONER GAZIANO: Hello, Ashley?

2 (No response.)

3 COMMISSIONER GAZIANO: Maybe he's calling
4 in again.

5 COMMISSIONER YAKI: No, she just said she
6 opened it up.

7 COMMISSIONER GAZIANO: Maybe he got off
8 though thinking that --

9 COMMISSIONER HERIOT: Yeah, I think he's
10 going to re-call.

11 COMMISSIONER YAKI: Is he on the line or
12 not?

13 CHAIRMAN REYNOLDS: Operator, is he on the
14 line?

15 OPERATOR: I'm showing that Ashley Taylor
16 is -- oh, one moment. Okay. Now, the line has
17 disconnected.

18 COMMISSIONER GAZIANO: He's trying to call
19 back in.

20 OPERATOR: Okay. He'll be dialing back in
21 and I'll make sure that he joins with an open line.

22 STAFF DIRECTOR DANNENFELSER: Mr.
23 Chairman.

24 CHAIRMAN REYNOLDS: Yes.

25 STAFF DIRECTOR DANNENFELSER: While we're

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1 waiting for Commissioner Taylor to come back in, could
2 you read into the record the final language for the
3 first two findings?

4 CHAIRMAN REYNOLDS: Okay.

5 COMMISSIONER GAZIANO: Maybe the court
6 reporter would because the first one was subject to an
7 oral modification by --

8 COMMISSIONER HERIOT: That's going to have
9 to be done by what's on the record because that's what
10 we voted on. If we try to say it again --

11 COMMISSIONER GAZIANO: Yeah, by Professor
12 Heriot, who -- who --

13 CHAIRMAN REYNOLDS: We'll rely -- we'll
14 rely on the transcript.

15 Okay. Pete, please --

16 COMMISSIONER KIRSANOW: Finding No. 3,
17 "about six in ten adult black males have a high school
18 diploma" --

19 COMMISSIONER TAYLOR: May I back?

20 CHAIRMAN REYNOLDS: Yes.

21 COMMISSIONER HERIOT: You're back.

22 COMMISSIONER TAYLOR: All right.

23 COMMISSIONER GAZIANO: How did you vote on
24 the first two? Did you hear the first two?

25 COMMISSIONER TAYLOR: I only heard -- I

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1 was dialing back in on -- I think I did not hear the
2 first one. I voted yes on the second, and I tried to
3 dial back in.

4 CHAIRMAN REYNOLDS: Okay. Let the record
5 reflect that he did not vote on Finding No. 1, and
6 that he voted in the affirmative in connection with
7 Finding No. 2.

8 COMMISSIONER HERIOT: I thought he did
9 vote on Finding No. 1.

10 COMMISSIONER TAYLOR: Was it one or two?

11 COMMISSIONER HERIOT: I think you voted on
12 one and then on two you voted by e-mail.

13 COMMISSIONER YAKI: No, I didn't hear him
14 vote on either one.

15 COMMISSIONER TAYLOR: Yeah, I only voted
16 on one, I think.

17 COMMISSIONER HERIOT: By e-mail?

18 COMMISSIONER TAYLOR: Yes.

19 COMMISSIONER HERIOT: Okay. Then it would
20 have been two.

21 COMMISSIONER TAYLOR: Yes.

22 CHAIRMAN REYNOLDS: Okay.

23 COMMISSIONER YAKI: Point of parliamentary
24 procedure here. In a telephone conference like this,
25 can you vote by e-mail?

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1 COMMISSIONER HERIOT: Well, he voted now
2 in person.

3 COMMISSIONER YAKI: Well, that's fine, but
4 all I can say is that I was not accorded the same
5 opportunity when I was during the debate on one of the
6 items and could not -- and my microphone was not on
7 either.

8 COMMISSIONER GAZIANO: I am willing to
9 support your motion to have your vote recorded on that
10 earlier one. I think you should.

11 CHAIRMAN REYNOLDS: Whoa, whoa, whoa, no.
12 I think that we need to have a lot more discussion on
13 this issue. I think Commissioner Yaki raises a good
14 point. I would prefer that we not allow voting by
15 e-mail until we have had further discussions on this
16 point.

17 COMMISSIONER GAZIANO: Oh, I agree on
18 that. I am just supporting -- I'm supporting --

19 COMMISSIONER HERIOT: Yeah. No, no, you
20 can't do that retroactively.

21 COMMISSIONER GAZIANO: -- that
22 Commissioner Yaki be able to record his vote orally.

23 CHAIRMAN REYNOLDS: Okay.

24 COMMISSIONER HERIOT: Yeah, you can't do
25 it retroactively. However, Ashley was on the line,

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1 and he's here, and he's saying -- well, I'll let him
2 speak for himself.

3 COMMISSIONER YAKI: Well, yeah, but what
4 I'm saying is that I was on the line, and for I think
5 the second vote that you took in terms of the
6 discussion of the April date, and could not vote. So
7 the question is if Mr. Taylor is allowed to do that
8 for the vote that he voted by e-mail, which I think
9 should not be allowed, but is allowed to reopen it for
10 that, to record his vote on that because he was
11 present for the discussion, and I have no dispute that
12 he wasn't, I don't know why I wasn't afforded the same
13 opportunity on the vote I tried to participate in and
14 could not because I was -- my microphone was not
15 opened either.

16 CHAIRMAN REYNOLDS: I think Commissioner
17 Yaki is right. Either his vote should be counted or
18 Commissioner Taylor's vote should not be counted.

19 COMMISSIONER GAZIANO: I think both should
20 be counted since through no fault of their own they --

21 COMMISSIONER HERIOT: Let's just go.

22 CHAIRMAN REYNOLDS: Well, hold on now.
23 This is not a precedent. Whatever we decide here,
24 it's for this vote. I think that we need to have
25 further discussions on the propriety of e-mails and

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1 the propriety of opening up a vote.

2 STAFF DIRECTOR DANNENFELSER: Mr. Chair,
3 you can have unanimous consent to reconsider the vote
4 that took place earlier.

5 CHAIRMAN REYNOLDS: Okay. So is the
6 consensus that we count both votes?

7 COMMISSIONER KIRSANOW: Kirsanow, yes.

8 STAFF DIRECTOR DANNENFELSER: --
9 Commissioners on the record on the phone call here,
10 that I think we're okay.

11 CHAIRMAN REYNOLDS: Okay. Commissioner
12 Yaki, how do you vote?

13 COMMISSIONER YAKI: With regard to?

14 CHAIRMAN REYNOLDS: The vote --

15 COMMISSIONER GAZIANO: Allowing the
16 Chairman to choose the date of our reschedule hearing,
17 is that the one you wanted to vote on?

18 COMMISSIONER YAKI: Right.

19 CHAIRMAN REYNOLDS: How do you vote?

20 COMMISSIONER YAKI: I was going to vote
21 no.

22 CHAIRMAN REYNOLDS: Okay. Let the record
23 reflect --

24 COMMISSIONER YAKI: I thought that the
25 wording was too vague and ambiguous, and I do believe

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1 that we are required to have the vote because of the
2 -- according to our A.I.s. So that' why I voted no.

3 CHAIRMAN REYNOLDS: Okay. Commissioner
4 Kirsanow.

5 COMMISSIONER KIRSANOW: Yes. Finding No.
6 3, and this also is a heads up. I'm going to have to
7 cut off the line in about, oh, a little less than ten
8 minutes, and I would suggest that we defer any
9 remaining findings and recommendations or
10 consideration thereof until the subsequent business
11 meeting if there's still findings and recommendations
12 to consider.

13 CHAIRMAN REYNOLDS: Okay.

14 COMMISSIONER GAZIANO: Or get through them

15 CHAIRMAN KIRSANOW: Okay. Three, "about
16 six in ten adult black males have a high school
17 diploma or less, and black men are disproportionately
18 employed in the low-skilled labor market where they
19 are more likely to be in labor competition with
20 immigrants," period.

21 CHAIRMAN REYNOLDS: Comments?

22 (No response.)

23 CHAIRMAN REYNOLDS: Commissioner Gaziano,
24 how do you vote?

25 COMMISSIONER GAZIANO: Pass.

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1 CHAIRMAN REYNOLDS: Commissioner Kirsanow,
2 how do you vote?

3 COMMISSIONER KIRSANOW: Yes.

4 CHAIRMAN REYNOLDS: Commissioner Heriot,
5 how do you vote?

6 COMMISSIONER HERIOT: Yes.

7 CHAIRMAN REYNOLDS: Commissioner Yaki, how
8 do you vote?

9 COMMISSIONER YAKI: No.

10 CHAIRMAN REYNOLDS: Commissioner Taylor,
11 how do you vote?

12 COMMISSIONER TAYLOR: Yes.

13 CHAIRMAN REYNOLDS: And I vote for it
14 also. Commissioner Gaziano, how do you --

15 COMMISSIONER GAZIANO: I should have just
16 abstained. I just don't know enough to vote
17 confidently on that. So I abstained.

18 CHAIRMAN REYNOLDS: Commissioners Gaziano
19 abstained; Commissioners Kirsanow, Heriot, Taylor and
20 Reynolds voted in favor of the motion; Commissioner
21 Yaki voted against it. The motion passes.

22 Commissioner Kirsanow, next up is Finding
23 No. 4.

24 COMMISSIONER KIRSANOW: Finding 4, "the
25 average worker with a high school degree or less earns

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1 less today," comma, "adjusted for inflation," comma,
2 "than someone with a similar education earned 35 years
3 ago," period.

4 CHAIRMAN REYNOLDS: Okay. Questions,
5 comments?

6 (No response.)

7 CHAIRMAN REYNOLDS: Commissioner Gaziano,
8 how do you vote?

9 COMMISSIONER GAZIANO: Yes.

10 CHAIRMAN REYNOLDS: Commissioner Kirsanow?

11 COMMISSIONER KIRSANOW: Yes.

12 CHAIRMAN REYNOLDS: Commissioner Heriot.

13 COMMISSIONER HERIOT: Yes.

14 CHAIRMAN REYNOLDS: Commissioner Yaki.

15 COMMISSIONER YAKI: No.

16 CHAIRMAN REYNOLDS: Commissioner Taylor.

17 COMMISSIONER TAYLOR: Yes.

18 CHAIRMAN REYNOLDS: And I vote for to
19 motion also. With the exception of Commissioner Yaki
20 who voted no, the remaining Commissioners voted in
21 favor of the motion.

22 Commissioner Kirsanow.

23 COMMISSIONER KIRSANOW: Finding 5 was
24 deleted.

25 COMMISSIONER HERIOT: Well, that means

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1 that Number 6 is now 5. We don't have to vote on
2 something that's not there.

3 COMMISSIONER KIRSANOW: Number 5 is
4 "illegal immigration to the United States in recent
5 decades has tended to depress both wages and
6 employment rates for low-," dash, "skilled American
7 citizens," comma, "a disproportionate number of whom
8 are black men," period. "Expert economic opinions
9 concerning the negative effects range from modest to
10 significant," period. "Those panelists that found
11 modest effects overall nonetheless found significant
12 effects in industry sectors such as meat packing and
13 construction," period.

14 CHAIRMAN REYNOLDS: Comments.

15 (No response.)

16 CHAIRMAN REYNOLDS: Commissioner Kirsanow.

17 I'm sorry. Commissioner Gaziano.

18 COMMISSIONER GAZIANO: Yes.

19 CHAIRMAN REYNOLDS: Kirsanow.

20 COMMISSIONER KIRSANOW: Yes.

21 CHAIRMAN REYNOLDS: Heriot.

22 COMMISSIONER HERIOT: Yes.

23 CHAIRMAN REYNOLDS: Yaki.

24 COMMISSIONER YAKI: No.

25 CHAIRMAN REYNOLDS: Taylor.

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1 COMMISSIONER TAYLOR: Yes.

2 CHAIRMAN REYNOLDS: And I vote in favor of
3 it.

4 With the exception of Commissioner Yaki
5 who voted no, the remaining Commissioners voted in
6 favor of the motion.

7 Commissioner Kirsanow.

8 COMMISSIONER KIRSANOW: Previous Findings
9 7 and 8 were deleted. So new Finding 6 is as follows:
10 "To be sure," comma, "factors other than illegal
11 immigration contribute to black unemployment," period.
12 "The problem cannot be solved without solving the
13 problems of the high school dropout rate," comma,
14 "high rates of family instability," comma, "and low
15 job retention rates," period. "Moreover," comma,
16 "halting illegal immigration is not a panacea even for
17 the problem of depressed wage rates for low-skilled
18 jobs," period. "If upward pressure is brought to bear
19 on low-skilled wages," comma, "increasing
20 globalization of the economy may result in some of
21 these jobs simply being exported to other countries,"
22 period. "Still," comma, "the effect of illegal
23 immigration on the wages of low-," dash, "skilled
24 work" -- I think that should be "workers" -- comma,
25 "who are disproportionately minority members," comma,

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1 "is a piece of the puzzle that must be considered by
2 policy makers in formulating sound immigration
3 policy," period.

4 CHAIRMAN REYNOLDS: Comments?

5 (No response.)

6 CHAIRMAN REYNOLDS: Commissioner Gaziano.

7 COMMISSIONER GAZIANO: Yes.

8 CHAIRMAN REYNOLDS: Commissioner Kirsanow.

9 COMMISSIONER KIRSANOW: Yes.

10 CHAIRMAN REYNOLDS: Commissioner Heriot.

11 COMMISSIONER HERIOT: Yes, with the
12 understanding that when Commissioner Kirsanow said
13 "dash" he meant "hyphen."

14 CHAIRMAN REYNOLDS: Okay. Commissioner
15 Yaki.

16 COMMISSIONER YAKI: Hyphen, no, hyphen.

17 CHAIRMAN REYNOLDS: Please -- for me.

18 COMMISSIONER GAZIANO: Never mind.

19 CHAIRMAN REYNOLDS: Are you voting for --

20 COMMISSIONER YAKI: No.

21 COMMISSIONER GAZIANO: Yaki voted no.

22 CHAIRMAN REYNOLDS: Okay. Commissioner
23 Taylor.

24 COMMISSIONER TAYLOR: Yes.

25 CHAIRMAN REYNOLDS: Okay. I also vote for

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1 the -- for the -- in favor of the motion.
2 Commissioner Yaki voted against the motion. The
3 remaining Commissioners voted for it.

4 Commissioner Kirsanow.

5 COMMISSIONER KIRSANOW: New Paragraph 7 or
6 Finding 7, "data collection and analysis of the
7 effects of illegal immigration are necessary to
8 develop sound public policy," period. "Much of the
9 data on this question is currently limited by the fact
10 that it does not distinguish clearly between legal and
11 illegal immigration," period.

12 CHAIRMAN REYNOLDS: Comments.

13 (No response.)

14 CHAIRMAN REYNOLDS: Commissioner Gaziano.

15 COMMISSIONER GAZIANO: Yes.

16 CHAIRMAN REYNOLDS: Kirsanow.

17 COMMISSIONER KIRSANOW: Yes.

18 CHAIRMAN REYNOLDS: Heriot.

19 COMMISSIONER HERIOT: Yes.

20 CHAIRMAN REYNOLDS: Yaki.

21 COMMISSIONER YAKI: No.

22 CHAIRMAN REYNOLDS: Taylor.

23 COMMISSIONER TAYLOR: Yes.

24 CHAIRMAN REYNOLDS: I also vote in favor
25 of the motion.

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1 We have one no; Commissioner Yaki voted
2 no. The remaining Commissioners voted in support of
3 the motion. It passes.

4 Next up are the, well, what is now the
5 single recommendation. Commissioner Kirsanow.

6 COMMISSIONER KIRSANOW: Yes. The only
7 recommendation is "the issue of illegal is so
8 complex," comma, "that it would not be appropriate for
9 us to make specific recommendations at this time,"
10 period. "However," comma, "the Commission does
11 recommend that the Bureau of Labor Statistics and
12 other appropriate governmental agencies collect data
13 concerning the presence of illegal workers in the U.S.
14 work force and compile data on the employment and wage
15 rate effects of such workers on low-," hyphen,
16 "skilled and low-," hyphen, "wage workers of all
17 races," comma, "making such data available to the
18 public," period.

19 CHAIRMAN REYNOLDS: Okay. Comments?

20 (No response.)

21 CHAIRMAN REYNOLDS: Commission Gaziano.

22 COMMISSIONER GAZIANO: Yes.

23 CHAIRMAN REYNOLDS: Commissioner Kirsanow.

24 COMMISSIONER KIRSANOW: Yes.

25 CHAIRMAN REYNOLDS: Commissioner Heriot.

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1 COMMISSIONER HERIOT: Because I love
2 Commissioner Kirsanow's hyphens, I vote yes.

3 CHAIRMAN REYNOLDS: Okay. Commissioner
4 Yaki.

5 COMMISSIONER YAKI: Because I'm agnostic
6 about the hyphens, I'm voting no.

7 CHAIRMAN REYNOLDS: Commissioner Taylor.

8 COMMISSIONER TAYLOR: Yes.

9 CHAIRMAN REYNOLDS: -- vote in favor of
10 the motion, one motion made -- one vote made by
11 Commissioner Yaki against the motion. The remaining
12 Commissioners voted in favor of it. It passes.

13 Okay. The next item on the agenda is the
14 status of the Title IX Project.

15 II. PROGRAM PLANNING

16 C. STATUS OF TITLE IX PROJECT

17 CHAIRMAN REYNOLDS: Mr. Blackwood or Dr.
18 Lerner, please provide us with an update on the
19 project.

20 MR. BLACKWOOD: This is David Blackwood.
21 Sorry.

22 As I indicated at the last meeting, --
23 institutions contacted us and asked for a bifurcated
24 response time.

25 COMMISSIONER HERIOT: Excuse me. I cannot

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1 understand what is being said.

2 MR. BLACKWOOD: As I indicated at the last
3 meeting, many of the institutions contacted us and
4 indicated that they wanted a bifurcated response.
5 That is to say they wanted to provide -- they were
6 willing to provide the data requested, but needed
7 additional time to respond to what are called the
8 narrative responses.

9 We entered into an agreement with most of
10 the schools. As of this week we have received most of
11 the data from most of the schools. There are several
12 schools that are still outstanding that we have
13 agreements to extend the time, but we should have them
14 by early next week.

15 There is a small subclass of schools that
16 have indicated they object to the data requests as
17 currently written, and while they have indicated that
18 they wish to work with us, they have not currently
19 provided the data.

20 I anticipate that in the next two weeks,
21 before the next meeting I will have -- I will enter
22 into negotiations with those schools and be able to
23 report at the next meeting whether those schools will
24 voluntarily provide the information, whether we enter
25 into some kind of modification or whether other action

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1 is necessary.

2 That is the extent of my report.

3 Dr. Lerner.

4 DR. LERNER: Yeah.

5 COMMISSIONER KIRSANOW: Mr. Chair,
6 Kirsanow signing off.

7 CHAIRMAN REYNOLDS: Okay.

8 DR. LERNER: Briefly, -- schools we
9 received that are the ones that General Counsel
10 mentioned. We received a (inaudible) and it appears
11 to be in preliminary analysis. It appears to be most
12 of what we're looking for. A number of the colleges
13 and universities requested postponement on the
14 athletic status of enrollees. That was more difficult
15 information to gather, and so the data that we have
16 from some of the colleges and universities consist of
17 the items that they would say items in Item 7 were
18 without that particular information, but it appears
19 that if we're going to have most of the information,
20 and we're starting to begin running the data -- we're
21 doing meta (inaudible) analysis -- we're beginning to
22 have (inaudible).

23 CHAIRMAN REYNOLDS: Okay. Does anyone
24 have any questions?

25 (No response.)

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1 CHAIRMAN REYNOLDS: All right. Well,
2 Commissioner Taylor.

3 COMMISSIONER TAYLOR: Yes.

4 CHAIRMAN REYNOLDS: Okay. You did not
5 have an opportunity to vote on the first finding.

6 COMMISSIONER TAYLOR: What was it?

7 CHAIRMAN REYNOLDS: Oh, paraphrase, there
8 has been a significant rise in U.S. immigration, both
9 legal and illegal, over the past four decades.
10 Immigrant workers now make up approximately one-
11 seventh of the American work force and --

12 COMMISSIONER HERIOT: We revised this a
13 little bit.

14 COMMISSIONER GAZIANO: Yeah, could the
15 court report -- Mr. Court Reporter, how difficult --
16 this is Todd Gaziano -- would it be for you to find
17 that discussion.

18 COURT REPORTER: It would take multiple
19 minutes and then there would be the difficulty of me
20 getting it to you in audio that you could understand.

21 COMMISSIONER TAYLOR: Thank you.

22 This is okay. That's fine. I don't need
23 a recorded vote on that particular finding.

24 CHAIRMAN REYNOLDS: Okay. Very good.

25 Next up, State Advisory Committees.

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III. STATE ADVISORY COMMITTEES

CHAIRMAN REYNOLDS: I move that the Commission recharter the Pennsylvania State Advisory Committee. Under this motion the Commission appoints the follow individuals to that Committee, based on the recommendations of the Staff Director.

The first person is Christopher Armstrong; Elisa Basnight; Richard Bockol; Alberto Cardelle; ImJa Choi; Heather Heidelbaugh; James Frazier; Nancy Gippert; Patricia Hopson-Shelton; Craig Hymowitz --

COMMISSIONER YAKI: Commissioner Reynolds, can we -- I unfortunately have to jump on to something else. Can we push these to the next business meeting? If I take off we're going to lose a quorum, and I'd rather not do that.

CHAIRMAN REYNOLDS: Okay. Then that's what we'll have to do.

Folks, we will adjourn the meeting at this point. Take care.

(Whereupon, at 11:52 a.m., the Commission meeting was adjourned.)

NEAL R. GROSS

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