U.S. COMMISSION ON CIVIL RIGHTS

+ + + + +

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
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
# TABLE OF CONTENTS

<table>
<thead>
<tr>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Roll Call</td>
</tr>
<tr>
<td>I. Approval of Agenda</td>
</tr>
<tr>
<td>II. Program Planning</td>
</tr>
<tr>
<td>A. Status of 2010 Enforcement Project</td>
</tr>
<tr>
<td>B. Approval of the Findings and Recommendations for the Impact of Illegal Immigration on the Wages and Employment of Black Workers</td>
</tr>
<tr>
<td>C. Status of Title IX Project</td>
</tr>
<tr>
<td>III. State Advisory Committees</td>
</tr>
</tbody>
</table>

Adjourn
PROCEDINGS

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

Is the Staff Director present?

STAFF DIRECTOR DANNENFELSER: Present.

CHAIRMAN REYNOLDS: Is the court reporter on the line?

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

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

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

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

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

Before I begin, I'd like to note that as I had mentioned on January 29th, while we were waiting to get a quorum for the telephonic business meeting, I
asked the Staff Director to prepare background information and monitor the developments arising out of what appears to have been a racially motivated attack of Asian students in South Philadelphia High School in December of 2009.

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

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

COMMISSIONER KIRSANOW: Mr. Chairman, Kirsanow here.

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

STAFF DIRECTOR DANNENFELSER: Yes.
CHAIRMAN REYNOLDS: Mr. Staff Director, was that a yes?

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

CHAIRMAN REYNOLDS: Great. Thank you. Okay. Next up is the approval of the agenda.

I. APPROVAL OF AGENDA

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

Do I have a second?


CHAIRMAN REYNOLDS: Discussion?

(No response.)

CHAIRMAN REYNOLDS: Bear with me.

Commissioner Gaziano, how do you vote?

COMMISSIONER GAZIANO: Yes.

CHAIRMAN REYNOLDS: Commissioner Kirsanow?

COMMISSIONER KIRSANOW: Aye.

CHAIRMAN REYNOLDS: Commissioner Heriot.

COMMISSIONER HERIOT: Yes.
CHAIRMAN REYNOLDS: Commissioner Taylor.

Commissioner Taylor.

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

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

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

II. PROGRAM PLANNING

A. STATUS OF 2010 ENFORCEMENT PROJECT

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

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

Did someone join us?

(No response.)

CHAIRMAN REYNOLDS: At the same time the General Counsel was in the process of assessing the
witnesses' availability to participate in a hearing on those dates. Based on the feedback that we received from both Commissioners and witnesses, it appears that Friday, April 23rd is the date for which we will have a critical mass of both Commissioners and witnesses.

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

Is there a second?

COMMISSIONER HERIOT: Second.

COMMISSIONER KIRSANOW: Kirsanow. Second.

CHAIRMAN REYNOLDS: Discussion?

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

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

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

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

CHAIRMAN REYNOLDS: Additional discussion?

(No response.)

CHAIRMAN REYNOLDS: Commissioner Gaziano, how do you vote?

COMMISSIONER GAZIANO: Yes.

CHAIRMAN REYNOLDS: Commissioner Kirsanow?

COMMISSIONER KIRSANOW: Aye.

CHAIRMAN REYNOLDS: Commissioner Heriot.

COMMISSIONER HERIOT: Yes.

CHAIRMAN REYNOLDS: Commissioner Taylor.

COMMISSIONER TAYLOR: Yes.

CHAIRMAN REYNOLDS: -- for the motion.
The motion passes.

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

THE REPORTER: Yes, Mr. Chairman.

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

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

CHAIRMAN REYNOLDS: So you cannot --

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

COMMISSIONER HERIOT: The operator.

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

THE REPORTER: You had asked for the court reporter.

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

CHAIRMAN REYNOLDS: Okay.

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

(Discussion was held off the record.)

(Commissioner Yaki joined the meeting.)
CHAIRMAN REYNOLDS: All right. At this point, Mr. General Counsel, do you have any other updates to provide on the project?

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

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

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

MR. BLACKWOOD: This is David Blackwood.

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

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

MR. BLACKWOOD: Yes, sir.

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

MR. BLACKWOOD: Not at this point, no.
And I will say that the biggest pending issue is whether the Department of Justice will allow its personnel to testify. I have made four separate requests to the department in that regard, and I have yet to receive a substantive response.

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

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

COMMISSIONER YAKI: Okay, and so what I'm gathering at this point, that aside from the DOJ witnesses with whom you are still having discussions with DOJ, aside from the previously subpoenaed witnesses who would agree to appear and aside from the previously subpoenaed witnesses who indicated they did not or witnesses from -- scratch that -- aside from the witnesses from Philadelphia who indicated they did not wish to appear, you are saying that there are not
any other additional invited witnesses apart from those who had previously been invited to appear at the February hearing.

MR. BLACKWOOD: That is correct.

COMMISSIONER YAKI: Thank you.

COMMISSIONER GAZIANO: Mr. Chair, this is Todd.

CHAIRMAN REYNOLDS: Yes.

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

COMMISSIONER YAKI: This is Commissioner Yaki.

I'm not suggesting anything to the contrary, Commissioner Gaziano. I was just trying to
figure out the status of the witness list as it occurred, as it was presented today.

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

CHAIRMAN REYNOLDS: Commissioner Yaki, that is correct.

COMMISSIONER YAKI: Okay.

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

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

CHAIRMAN REYNOLDS: It's forgotten.

Okay. Next up is the approval of the findings and recommendations for the impact of illegal immigration on the wages and employment of black
II. PROGRAM PLANNING

B. APPROVAL OF FINDINGS AND RECOMMENDATIONS

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

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

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

I move that the Commission approve for publication the Kirsanow substitute findings and recommendations along with Part A of the report which was approved at a previous meeting, any concurring and dissenting statements submitted by any Commissioner by March 30th, with rebuttals to be submitted by any Commissioner by April 30th. Under this motion, the Commission would vote individually on each finding and
recommendation. Those findings and recommendations receiving the majority of votes would be included in the final report with a vote tally and a sentence explaining any opposition for that vote.

Is there a second?

COMMISSIONER KIRSANOW: Kirsanow. Second.

CHAIRMAN REYNOLDS: Discussion.

COMMISSIONER YAKI: Yeah, this is Commissioner Yaki.

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

COMMISSIONER KIRSANOW: Yeah.

Commissioner Yaki, many of these changes were as a result of conferencing with other Commissioners, specifically Commissioner Heriot and Commissioner Gaziano, who included a few edits to my amendment or substitute amendment.

Some are stylistic. I eliminated, for example, however, many of, if not all of, the recommendations but one because I thought that, in consultation with Commissioner Heriot, that it would be -- the findings and recommendations would be -- would be more taut having done so and more consistent with what was reflected in terms of evidence adduced at the hearing.
CHAIRMAN REYNOLDS: Excuse me. Excuse me, Commissioner Kirsanow. Do you have the findings and recommendations in front of you?

COMMISSIONER KIRSANOW: I do.

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

COMMISSIONER KIRSANOW: I'll do so.

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

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

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

COMMISSIONER YAKI: I'm sorry. Where? I
can't -- that change isn't in the Kirsanow substitute that I see. Hang on.

COMMISSIONER GAZIANO: Is it possible --

this is Todd Gaziano -- is it possible, Pete, that you could e-mail the version with some of these changes to all Commissioners?

COMMISSIONER KIRSANOW: I can.

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

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

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

COMMISSIONER GAZIANO: Okay.

COMMISSIONER KIRSANOW: Right now.

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

COMMISSIONER KIRSANOW: Sure.

COMMISSIONER YAKI: I'd like to know.

CHAIRMAN REYNOLDS: Okay. Commissioner
Kirsanow, could you just read it into the record and identify the changes that were made, and after that's done we can move to vote on the each finding.

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

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

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

CHAIRMAN REYNOLDS: Okay. Commissioner Heriot.

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

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

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

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

COMMISSIONER YAKI: Michaeljyaki@aol.com.

COMMISSIONER KIRSANOW: Okay. Let me do that.

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

COMMISSIONER KIRSANOW: Yes.

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

COMMISSIONER KIRSANOW: Yes.

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

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

CHAIRMAN REYNOLDS: Okay.
COMMISSIONER GAZIANO:  Can we just vote on them one at a time then as Commissioner Kirsanow reads them?

CHAIRMAN REYNOLDS:  That's what I had suggested.

COMMISSIONER GAZIANO:  Okay.

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

Commissioner Gaziano, how do you vote?

COMMISSIONER GAZIANO:  Yes.

CHAIRMAN REYNOLDS:  Commissioner Kirsanow?

COMMISSIONER KIRSANOW:  Yes.

CHAIRMAN REYNOLDS:  Commissioner Heriot.

COMMISSIONER HERIOT:  Yes.

CHAIRMAN REYNOLDS:  Commissioner Taylor.

Commissioner Taylor.

(No response.)

CHAIRMAN REYNOLDS:  Commissioner Yaki.

COMMISSIONER YAKI:  No.

CHAIRMAN REYNOLDS:  Commissioner Taylor.

(No response.)

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

Next up.

COMMISSIONER HERIOT:  Did you vote, Gerry?
CHAIRMAN REYNOLDS: Oh, I'm sorry. Yes, I vote in favor of the motion. So Commissioner Yaki voted no. Commissioner Taylor did not vote. The remaining votes were in favor of the motion.

Commissioner Kirsanow.

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

CHAIRMAN REYNOLDS: Comments?

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

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

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

COMMISSIONER HERIOT: I agree with that, but I don't think "on average" really conveys that. I think that all you need is "tended."
COMMISSIONER GAZIANO: Yeah, "tended to" in that one is fine. So if you want to strike "on average," I'm fine.

COMMISSIONER HERIOT: Strike "U.S."?

COMMISSIONER GAZIANO: Pardon?

COMMISSIONER HERIOT: Strike "U.S."?

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

COMMISSIONER HERIOT: Okay.

OPERATOR: Hello.

COMMISSIONER KIRSANOW: Hello.

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

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

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

COMMISSIONER GAZIANO: Yes.

CHAIRMAN REYNOLDS: Commissioner Kirsanow.

COMMISSIONER KIRSANOW: Yes.

CHAIRMAN REYNOLDS: Commissioner Heriot.
COMMISSIONER HERIOT: Yes, on the understanding that we've stricken the words "on average."

CHAIRMAN REYNOLDS: Commissioner Yaki.

COMMISSIONER YAKI: No.

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

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

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

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

COMMISSIONER YAKI: Is he calling back in?

OPERATOR: He's on the line currently.

COMMISSIONER HERIOT: He's here now.

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

CHAIRMAN REYNOLDS: Operator, is this problem on his side or is this -- can you fix this problem or does this have to do with the hardware that
he's using?

COMMISSIONER GAZIANO: Did he unmute his phone?

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

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

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

THE OPERATOR: And his name is?

CHAIRMAN REYNOLDS: Ashley Taylor.

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

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

OPERATOR: Okay. Hi.

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

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

OPERATOR: Okay, and I just opened up Ashley Taylor's line.
COMMISSIONER GAZIANO: Hello, Ashley?
(No response.)

COMMISSIONER GAZIANO: Maybe he's calling in again.

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

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

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

COMMISSIONER YAKI: Is he on the line or not?

CHAIRMAN REYNOLDS: Operator, is he on the line?

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

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

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

STAFF DIRECTOR DANNENFELSER: Mr. Chairman.

CHAIRMAN REYNOLDS: Yes.

STAFF DIRECTOR DANNENFELSER: While we're
waiting for Commissioner Taylor to come back in, could
you read into the record the final language for the
first two findings?

CHAIRMAN REYNOLDS: Okay.

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

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

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

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

Okay. Pete, please --

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

COMMISSIONER TAYLOR: May I back?

CHAIRMAN REYNOLDS: Yes.

COMMISSIONER HERIOT: You're back.

COMMISSIONER TAYLOR: All right.

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

COMMISSIONER TAYLOR: I only heard -- I
was dialing back in on -- I think I did not hear the first one. I voted yes on the second, and I tried to dial back in.

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

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

COMMISSIONER TAYLOR: Was it one or two?

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

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

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

COMMISSIONER HERIOT: By e-mail?

COMMISSIONER TAYLOR: Yes.

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

COMMISSIONER TAYLOR: Yes.

CHAIRMAN REYNOLDS: Okay.

COMMISSIONER YAKI: Point of parliamentary procedure here. In a telephone conference like this, can you vote by e-mail?
COMMISSIONER HERIOT: Well, he voted now in person.

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

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

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

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

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

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

CHAIRMAN REYNOLDS: Okay.

COMMISSIONER HERIOT: Yeah, you can't do it retroactively. However, Ashley was on the line,
and he's here, and he's saying -- well, I'll let him speak for himself.

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

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

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

COMMISSIONER HERIOT: Let's just go.

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

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

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

COMMISSIONER KIRSANOW: Kirsanow, yes.

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

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

COMMISSIONER YAKI: With regard to?

CHAIRMAN REYNOLDS: The vote --

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

COMMISSIONER YAKI: Right.

CHAIRMAN REYNOLDS: How do you vote?

COMMISSIONER YAKI: I was going to vote no.

CHAIRMAN REYNOLDS: Okay. Let the record reflect --

COMMISSIONER YAKI: I thought that the wording was too vague and ambiguous, and I do believe
that we are required to have the vote because of the -- according to our A.I.s. So that's why I voted no.

CHAIRMAN REYNOLDS: Okay. Commissioner Kirsanow.

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

CHAIRMAN REYNOLDS: Okay.

COMMISSIONER GAZIANO: Or get through them

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

CHAIRMAN REYNOLDS: Comments?

(No response.)

CHAIRMAN REYNOLDS: Commissioner Gaziano, how do you vote?

COMMISSIONER GAZIANO: Pass.
CHAIRMAN REYNOLDS: Commissioner Kirsanow, how do you vote?

COMMISSIONER KIRSANOW: Yes.

CHAIRMAN REYNOLDS: Commissioner Heriot, how do you vote?

COMMISSIONER HERIOT: Yes.

CHAIRMAN REYNOLDS: Commissioner Yaki, how do you vote?

COMMISSIONER YAKI: No.

CHAIRMAN REYNOLDS: Commissioner Taylor, how do you vote?

COMMISSIONER TAYLOR: Yes.

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

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

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

Commissioner Kirsanow, next up is Finding No. 4.

COMMISSIONER KIRSANOW: Finding 4, "the average worker with a high school degree or less earns
less today," comma, "adjusted for inflation," comma, "than someone with a similar education earned 35 years ago," period.

CHAIRMAN REYNOLDS: Okay. Questions, comments?

(No response.)

CHAIRMAN REYNOLDS: Commissioner Gaziano, how do you vote?

COMMISSIONER GAZIANO: Yes.

CHAIRMAN REYNOLDS: Commissioner Kirsanow?

COMMISSIONER KIRSANOW: Yes.

CHAIRMAN REYNOLDS: Commissioner Heriot.

COMMISSIONER HERIOT: Yes.

CHAIRMAN REYNOLDS: Commissioner Yaki.

COMMISSIONER YAKI: No.

CHAIRMAN REYNOLDS: Commissioner Taylor.

COMMISSIONER TAYLOR: Yes.

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

Commissioner Kirsanow.

COMMISSIONER KIRSANOW: Finding 5 was deleted.

COMMISSIONER HERIOT: Well, that means
that Number 6 is now 5. We don't have to vote on something that's not there.

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

CHAIRMAN REYNOLDS: Comments.

(No response.)

CHAIRMAN REYNOLDS: Commissioner Kirsanow.

I'm sorry. Commissioner Gaziano.

COMMISSIONER GAZIANO: Yes.

CHAIRMAN REYNOLDS: Kirsanow.

COMMISSIONER KIRSANOW: Yes.

CHAIRMAN REYNOLDS: Heriot.

COMMISSIONER HERIOT: Yes.

CHAIRMAN REYNOLDS: Yaki.

COMMISSIONER YAKI: No.

CHAIRMAN REYNOLDS: Taylor.
COMMISSIONER TAYLOR: Yes.

CHAIRMAN REYNOLDS: And I vote in favor of it.

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

Commissioner Kirsanow.

COMMISSIONER KIRSANOW: Previous Findings 7 and 8 were deleted. So new Finding 6 is as follows:

"To be sure," comma, "factors other than illegal immigration contribute to black unemployment," period.

"The problem cannot be solved without solving the problems of the high school dropout rate," comma, "high rates of family instability," comma, "and low job retention rates," period. "Moreover," comma, "halting illegal immigration is not a panacea even for the problem of depressed wage rates for low-skilled jobs," period. "If upward pressure is brought to bear on low-skilled wages," comma, "increasing globalization of the economy may result in some of these jobs simply being exported to other countries," period. "Still," comma, "the effect of illegal immigration on the wages of low-" dash, "skilled work" -- I think that should be "workers" -- comma, "who are disproportionately minority members," comma,
"is a piece of the puzzle that must be considered by policy makers in formulating sound immigration policy," period.

CHAIRMAN REYNOLDS: Comments?

(No response.)

CHAIRMAN REYNOLDS: Commissioner Gaziano.

COMMISSIONER GAZIANO: Yes.

CHAIRMAN REYNOLDS: Commissioner Kirsanow.

COMMISSIONER KIRSANOW: Yes.

CHAIRMAN REYNOLDS: Commissioner Heriot.

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

CHAIRMAN REYNOLDS: Okay. Commissioner Yaki.

COMMISSIONER YAKI: Hyphen, no, hyphen.

CHAIRMAN REYNOLDS: Please -- for me.

COMMISSIONER GAZIANO: Never mind.

CHAIRMAN REYNOLDS: Are you voting for --

COMMISSIONER YAKI: No.

COMMISSIONER GAZIANO: Yaki voted no.

CHAIRMAN REYNOLDS: Okay. Commissioner Taylor.

COMMISSIONER TAYLOR: Yes.

CHAIRMAN REYNOLDS: Okay. I also vote for
the -- for the -- in favor of the motion. Commissioner Yaki voted against the motion. The remaining Commissioners voted for it.

Commissioner Kirsanow.

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

CHAIRMAN REYNOLDS: Comments.

(No response.)

CHAIRMAN REYNOLDS: Commissioner Gaziano.

COMMISSIONER GAZIANO: Yes.

CHAIRMAN REYNOLDS: Kirsanow.

COMMISSIONER KIRSANOW: Yes.

CHAIRMAN REYNOLDS: Heriot.

COMMISSIONER HERIOT: Yes.

CHAIRMAN REYNOLDS: Yaki.

COMMISSIONER YAKI: No.

CHAIRMAN REYNOLDS: Taylor.

COMMISSIONER TAYLOR: Yes.

CHAIRMAN REYNOLDS: I also vote in favor of the motion.
We have one no; Commissioner Yaki voted no. The remaining Commissioners voted in support of the motion. It passes.

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

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

CHAIRMAN REYNOLDS: Okay. Comments?

(No response.)

CHAIRMAN REYNOLDS: Commission Gaziano.

COMMISSIONER GAZIANO: Yes.

CHAIRMAN REYNOLDS: Commissioner Kirsanow.

COMMISSIONER KIRSANOW: Yes.

CHAIRMAN REYNOLDS: Commissioner Heriot.
COMMISSIONER HERIOT: Because I love Commissioner Kirsanow's hyphens, I vote yes.

CHAIRMAN REYNOLDS: Okay. Commissioner Yaki.

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

CHAIRMAN REYNOLDS: Commissioner Taylor.

COMMISSIONER TAYLOR: Yes.

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

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

II. PROGRAM PLANNING

C. STATUS OF TITLE IX PROJECT

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

MR. BLACKWOOD: This is David Blackwood. Sorry.

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

COMMISSIONER HERIOT: Excuse me. I cannot
understand what is being said.

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

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

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

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

That is the extent of my report.

Dr. Lerner.

DR. LERNER: Yeah.

COMMISSIONER KIRSANOW: Mr. Chair, Kirsanow signing off.

CHAIRMAN REYNOLDS: Okay.

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

CHAIRMAN REYNOLDS: Okay. Does anyone have any questions?

(No response.)
CHAIRMAN REYNOLDS: All right. Well, Commissioner Taylor.

COMMISSIONER TAYLOR: Yes.

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

COMMISSIONER TAYLOR: What was it?

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

COMMISSIONER HERIOT: We revised this a little bit.

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

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

COMMISSIONER TAYLOR: Thank you.

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

CHAIRMAN REYNOLDS: Okay. Very good.

Next up, State Advisory Committees.
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.)