U.S. COMMISSION ON CIVIL RIGHTS

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MEETING

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FRIDAY, MARCH 12, 2010

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The Commission convened in Room 540 at 624 Ninth Street, Northwest, Washington, D.C. at 9:30 a.m., GERALD A. REYNOLDS, Chairman, presiding.

PRESENT:

GERALD A. REYNOLDS, Chairman (via telephone)
ABIGAIL THERNSTROM, Vice Chairman
TODD F. GAZIANO, Commissioner
GAIL L. HERIOT, Commissioner
PETER N. KIRSANOW, Commissioner (via telephone)
ARLAN D. MELENDEZ, Commissioner (via telephone)
MICHAEL YAKI, Commissioner

MARTIN DANNENFELSER, Staff Director
STAFF PRESENT:

DAVID BLACKWOOD, General Counsel, OGC
CHRISTOPHER BYRNES, Director, RPCU
DEBRA CARR
DEMITRIA DEAS
PAMELA A. DUNSTON, Chief, ASCD
LATRICE FOSHEE
MAJA JWEIDE
ROBERT LERNER, Assistant Staff Director,
    OCRE (via telephone)
EMMA MONROIG, Solicitor
LENORE OSTROWSKY, Acting Chief, PAU
JOHN RATCLIFFE, Chief, Budget and Finance
KIMBERLY TOLHURST
AUDREY WRIGHT
MICHELLE YORKMAN-RAMEY

COMMISSIONER ASSISTANTS PRESENT:

TIM FAY
JOHN MARTIN
ALISON SCHMAUCH
# Table of Contents

<table>
<thead>
<tr>
<th>Agenda Item</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>I. Approval of Agenda</td>
<td>5</td>
</tr>
<tr>
<td>II. State Advisory Committee Issues</td>
<td>11</td>
</tr>
<tr>
<td>- Pennsylvania</td>
<td>11</td>
</tr>
<tr>
<td>- Nevada SAC</td>
<td>15</td>
</tr>
<tr>
<td>- Kansas SAC</td>
<td>17</td>
</tr>
<tr>
<td>- Missouri SAC</td>
<td>20</td>
</tr>
<tr>
<td>- District of Columbia SAC</td>
<td>30</td>
</tr>
<tr>
<td>II. Program Planning</td>
<td>37</td>
</tr>
<tr>
<td>- Approval of Briefing Report on</td>
<td>37</td>
</tr>
<tr>
<td>Historically Black Colleges and</td>
<td></td>
</tr>
<tr>
<td>Universities</td>
<td></td>
</tr>
<tr>
<td>- Discussion of Immigration Report</td>
<td>54</td>
</tr>
<tr>
<td>at Prior Meeting</td>
<td></td>
</tr>
<tr>
<td>- Discussion of Letters to House of</td>
<td>74</td>
</tr>
<tr>
<td>Representatives and Youngstown, Ohio</td>
<td></td>
</tr>
<tr>
<td>- Discussion of Statement of</td>
<td>81</td>
</tr>
<tr>
<td>Department of Education</td>
<td></td>
</tr>
<tr>
<td>- Discussion of Commission Meeting</td>
<td>85</td>
</tr>
<tr>
<td>Schedule in April</td>
<td></td>
</tr>
<tr>
<td>- Discussion of Timelines for</td>
<td>88</td>
</tr>
<tr>
<td>Consideration of Briefing Reports &amp;</td>
<td></td>
</tr>
<tr>
<td>Scheduling of Briefings</td>
<td></td>
</tr>
<tr>
<td>- Update on Status of the 2010</td>
<td>98</td>
</tr>
<tr>
<td>Enforcement Report and Related</td>
<td></td>
</tr>
<tr>
<td>Hearing</td>
<td></td>
</tr>
<tr>
<td>- Update on Status of Title IX</td>
<td>101</td>
</tr>
<tr>
<td>Project</td>
<td></td>
</tr>
<tr>
<td>- Update on Attack Against</td>
<td>111</td>
</tr>
<tr>
<td>Asian-American Students at South</td>
<td></td>
</tr>
<tr>
<td>Philadelphia High School</td>
<td></td>
</tr>
<tr>
<td>IV. Management and Operations</td>
<td>122</td>
</tr>
<tr>
<td>- Office of General Counsel</td>
<td>123</td>
</tr>
<tr>
<td>Presentation Regarding Commissioner</td>
<td></td>
</tr>
<tr>
<td>Terms</td>
<td></td>
</tr>
<tr>
<td>V. Staff Director's Report</td>
<td>126</td>
</tr>
</tbody>
</table>
P-R-O-C-E-E-D-I-N-G-S

(9:34 a.m.)

CHAIRPERSON REYNOLDS: The meeting will come to order. This is a meeting of the U.S. Commission on Civil Rights. It is 9:34 a.m. Eastern Standard Time on March 12th, 2010. Commissioner Kirsanow and I are participating by phone. Vice Chair Thernstrom is in and out. She hasn't arrived yet.

Commissioner Melendez, was that you who just joined us?

COMMISSIONER MELENDEZ: Yes. Good morning.

CHAIRPERSON REYNOLDS: Very good. Commissioner Melendez will also participate by phone. Commissioners Heriot, Gaziano, and Yaki are present at 624 9th Street, Northwest, Room 540 in Washington, D.C., where the meeting is being held. Commissioners participating by phone, please be sure to state your name before making a statement or tasking a vote to make it easier on our court reporter.

Before I begin, I would like to note the passing of former Commissioner Juanita
Goggins, who died last month at the age of 75. She was a woman of many firsts, the first black woman to serve on the U.S. Commission on Civil Rights and the first black woman elected to the South Carolina General Assembly.

She represented House District 49 in Rock Hill, South Carolina from 1974 until 1980, serving on the House Ways and Means Committee. She was also the first black woman from South Carolina elected to the Democratic National Committee.

Today we celebrate her life and acknowledge her contribution to this Commission.

I. APPROVAL OF AGENDA

CHAIRPERSON REYNOLDS: The first item on the agenda is the approval of the agenda. Is there a motion to approve the agenda?

COMMISSIONER GAZIANO: So moved.

CHAIRPERSON REYNOLDS: Second?

COMMISSIONER KIRSANOW: Second.

COMMISSIONER YAKI: This is Commissioner Yaki. When would the appropriate time be to make an amendment to the agenda?

CHAIRPERSON REYNOLDS: Let's do that
now.

COMMISSIONER YAKI: Commissioner Melendez and I would like to have an item added to the agenda to just discuss how the immigration report findings and recommendations were handled at the last teleconference meeting.

CHAIRPERSON REYNOLDS: I'm sorry, please repeat yourself.

COMMISSIONER YAKI: Commissioner Melendez and I would like to have an agenda item added for discussion on how the immigration report was handled at the last business meeting.

CHAIRPERSON REYNOLDS: Okay. All right. I second the motion. Discussion?

COMMISSIONER GAZIANO: Do you have other agenda amendments yourself, Mr. Chair? Should we vote them one at a time or all together?

CHAIRPERSON REYNOLDS: Let's do it one at a time. I anticipate there will be unanimity, but I am not sure.

Commissioner Melendez, how do you vote?

COMMISSIONER MELENDEZ: Yes.

CHAIRPERSON REYNOLDS: Commissioner
Kirsanow?

COMMISSIONER KIRSANOW: Yes.

CHAIRPERSON REYNOLDS: Commissioner Yaki?

COMMISSIONER YAKI: Aye.

CHAIRPERSON REYNOLDS: Commissioner Heriot?

COMMISSIONER HERIOT: Aye.

CHAIRPERSON REYNOLDS: Commissioner Gaziano?

COMMISSIONER GAZIANO: Sure.

CHAIRPERSON REYNOLDS: And I vote for it also. So it passes unanimously.

Next up, Commissioner Kirsanow, I understand that you have some amendments to the agenda.

COMMISSIONER KIRSANOW: I do. Mr. Chair, I would move to amend the agenda to add consideration of the two letters I circulated Wednesday and Thursday.

The first is advising the House of the preferences in the Senate's version of the health care bill, a letter that we sent out in December.

This one will go out to House members.
The second letter is a letter to officials of the City of Youngstown, Ohio, who are using a racially bifurcated hiring list in hiring police and firefighters.

So I would move that we place those two items on the agenda.

CHAIRPERSON REYNOLDS: Okay. I second the motion. Discussion.

(No response.)

CHAIRPERSON REYNOLDS: Commissioner Melendez?

COMMISSIONER MELENDEZ: Yes.

CHAIRPERSON REYNOLDS: Commissioner Kirsanow?

COMMISSIONER KIRSANOW: Yes.

CHAIRPERSON REYNOLDS: Commissioner Yaki?

COMMISSIONER YAKI: No.

CHAIRPERSON REYNOLDS: Commissioner Heriot?

COMMISSIONER HERIOT: Yes.

CHAIRPERSON REYNOLDS: Commissioner Gaziano?

COMMISSIONER GAZIANO: Yes.
CHAIRPERSON REYNOLDS: I vote for it also. Commissioner Yaki votes against it. The remaining commissioners vote for it. The motion passes.

Okay. So now let's vote on the agenda as amended. I move that we do so. Is there a second?

COMMISSIONER HERIOT: Second.

COMMISSIONER GAZIANO: Could I add one other agenda item?

CHAIRPERSON REYNOLDS: Yes.

COMMISSIONER GAZIANO: Just a discussion item, really, on the Department of Education's information, I suppose, or statement that it may investigate schools for disparate impact relating to discipline in AP courses and related matters.

CHAIRPERSON REYNOLDS: All right. I second the motion. Discussion?

(No response.)

CHAIRPERSON REYNOLDS: Commissioner Melendez, how do you vote?

COMMISSIONER MELENDEZ: Yes.

CHAIRPERSON REYNOLDS: Commissioner
Kirsanow?

COMMISSIONER KIRSANOW: Yes.

CHAIRPERSON REYNOLDS: Commissioner

Yaki?

COMMISSIONER YAKI: No.

CHAIRPERSON REYNOLDS: Commissioner

Heriot?

COMMISSIONER HERIOT: Yes.

CHAIRPERSON REYNOLDS: Commissioner

Gaziano?

COMMISSIONER GAZIANO: Yes.

CHAIRPERSON REYNOLDS: I vote for it also. Commissioner Yaki votes against the motion. And the remaining commissioners voted for it. The motion passes.

At this point we are going to vote for the agenda as amended. Second?

COMMISSIONER GAZIANO: I am glad to vote before, but will you tell us where on the agenda you are going to place these different items or do you want to do it after?

CHAIRPERSON REYNOLDS: Okay. Let's see. I'll put them on the front end. Well, I'll put them after the approval on the briefing report.
on HBCUs.

And the order, I'll take the order as we received them: immigration; then the two letters; and, finally, issues related to OCR.

Okay. Commissioner Melendez, how do you vote?

COMMISSIONER MELENDEZ: Yes.

CHAIRPERSON REYNOLDS: Commissioner Kirsanow?

COMMISSIONER KIRSANOW: Yes.

CHAIRPERSON REYNOLDS: Commissioner Yaki?

COMMISSIONER YAKI: Aye.

CHAIRPERSON REYNOLDS: Commissioner Heriot?

COMMISSIONER HERIOT: Yes.

CHAIRPERSON REYNOLDS: Commissioner Gaziano?

COMMISSIONER GAZIANO: Yes.

CHAIRPERSON REYNOLDS: Okay. The motion passes unanimously.

II. STATE ADVISORY COMMITTEE ISSUES

- PENNSYLVANIA

CHAIRPERSON REYNOLDS: First up will
be the State Advisory Committees. I move that the Commission recharter the Pennsylvania State Advisory Committee.

Under this motion, the Commission appoints the following individuals to that committee based on recommendations of the Staff Director: Christopher Armstrong, Elisa Basnight, Richard Baulding, Alberro Cardelle, ImJa Choi, Heather Heidelbaugh, James Frazier, Nancy Gippert, Patricia Hopson-Shelton, Craig Hymowitz, Steven Irwin, Faye Ritter, William Rothman, Lawrence Tabas, and Connie Tarr. Pursuant to this motion, the Commission also appoints James Frazier as the chair of this rechartered Pennsylvania State Advisory Committee.

They will serve as uncompensated state government employees. And the Commission appreciates the hard work that they will no doubt contribute to the State Advisory Committee.

Under this motion, the Commission authorizes the Staff Director to execute the appropriate work for the appointment.

Is there a second? Is there a second?

COMMISSIONER KIRSANOW: Kirsanow.
Second.

CHAIRPERSON REYNOLDS: Thank you.

Discussion?

(No response.)

CHAIRPERSON REYNOLDS: Commissioner Melendez, how do you vote?

COMMISSIONER MELENDEZ: Discussion.

This seems to be not real balanced. It's balanced as far as women and men, but it seems to be there are more Republicans than Democrats on this one. It seems to be skewed way to the right.

CHAIRPERSON REYNOLDS: Eight Republicans, five Democrats, two Independents. We also tried to tease out the viewpoints of the folks under consideration. And if you look at their viewpoints, their ideology, by my scorecard, we have seven individuals who lean to the left, five who lean to the right, and three unknown.

COMMISSIONER GAZIANO: Commissioner Melendez?

CHAIRPERSON REYNOLDS: I assume, Commissioner Melendez, that you are more interested in their ideology. And, if I am right, this is probably a balanced commission. I say
"probably" only because there are three individuals where we were unable to tease out their viewpoints.

COMMISSIONER GAZIANO: Commissioner Melendez, I am concerned that it may lean to the left. So I may abstain on lack of balance but going the other way.

CHAIRPERSON REYNOLDS: Any other comments?

(No response.)

CHAIRPERSON REYNOLDS: Commissioner Melendez, how do you vote?

COMMISSIONER MELENDEZ: I vote no.

CHAIRPERSON REYNOLDS: Commissioner Kirsanow?

COMMISSIONER KIRSANOW: Yes.

CHAIRPERSON REYNOLDS: Commissioner Yaki?

COMMISSIONER YAKI: No.

CHAIRPERSON REYNOLDS: Commissioner Heriot?

COMMISSIONER HERIOT: Yes.

CHAIRPERSON REYNOLDS: Commissioner Gaziano?
COMMISSIONER GAZIANO: Pass.

CHAIRPERSON REYNOLDS: I am sorry? Did you say "Pass"?

COMMISSIONER GAZIANO: Pass.

CHAIRPERSON REYNOLDS: I vote for it.

Commissioner Gaziano, how do you vote?

COMMISSIONER GAZIANO: What is the vote right now?

CHAIRPERSON REYNOLDS: It is three votes for it, two votes against it.


CHAIRPERSON REYNOLDS: Thank you. Okay. The motion passes: three votes for it, two against, one abstention.

- NEVADA SAC

CHAIRPERSON REYNOLDS: Next up is the Nevada State Advisory Committee. I move that the Commission recharter the Nevada State Advisory Committee.

Under this motion, the Commission appoints the following individuals to that committee based on the recommendations of the
Staff Director: Robert Beers, Onie Cooper, Belen Gabato, Kay Kindred, Peggy Micco-Koning, Theresa Navarro, Michael Pennington, Dennis Perea, Devin Reiss, Cheryl Russo-Campbell, Matthew Saltzman, and Michael Spurlock. Pursuant to this motion, the Commission also appoints Michael Pennington as the chair of the rechartered Nevada State Advisory Committee.

These committee members will also serve as uncompensated state government employees. Under this motion, the Commission authorizes the Staff Director to execute the appropriate paperwork.

Discussion? I'm sorry. Is there a second?

COMMISSIONER GAZIANO: Second.

CHAIRPERSON REYNOLDS: Discussion?

(No response.)

CHAIRPERSON REYNOLDS: Okay.

Commissioner Melendez?

COMMISSIONER MELENDEZ: It looks okay to me. I'll vote yes.

CHAIRPERSON REYNOLDS: Commissioner Kirsanow?
COMMISSIONER KIRSANOW: Yes.

CHAIRPERSON REYNOLDS: Commissioner

Yaki?

COMMISSIONER YAKI: Abstain.

CHAIRPERSON REYNOLDS: Commissioner

Heriot?

COMMISSIONER HERIOT: Yes.

CHAIRPERSON REYNOLDS: Commissioner

Gaziano?

COMMISSIONER GAZIANO: Yes.

CHAIRPERSON REYNOLDS: I, too, vote for it. One abstention. And the remaining commissioners vote for it. It passes.

- KANSAS SAC

CHAIRPERSON REYNOLDS: Next up is the Kansas State Advisory Committee. I move that the Commission recharter the Kansas State Advisory Committee.

Under this motion, the Commission appoints the following individuals to that committee: Michael Abrams, Laurie Bagby, Susan Berson, Melanie Caro, Chiquita Coggs, Marsha Frey, Michelle Johnson, Jennifer Kassebaum, Robert Mandel, Sarah McIntosh, Phyllis Nolan, Kirk
Perucca, Charles Scott, Kimberly Shankman, Ewa Unoke. Pursuant to this motion, the Commission also appoints Kimberly Shankman as chair of the rechartered State Advisory Committee.

These members will serve as uncompensated government employees. Under this motion, the Commission authorizes the Staff Director to execute the appropriate paperwork for the appointment.

Is there a second?

COMMISSIONER GAZIANO: Second.

CHAIRPERSON REYNOLDS: Discussion?

COMMISSIONER YAKI: This is Commissioner Yaki. Kansas has had a rather substantial and measurable growth in its Latino population. I think it's almost ten percent of the state. Were there any efforts directed towards recruiting members of that community for inclusion on the SAC?

CHAIRPERSON REYNOLDS: Mr. Staff Director, please respond to Commissioner Yaki's question. And also do you know if any of the candidates are Hispanic?

STAFF DIRECTOR DANNENFELSER: There
was outreach from the region to El Centro Incorporated, which I believe was an Hispanic organization in Kansas. I don't have a breakdown in front of me on whether or not any of the members themselves are Hispanics.

CHAIRPERSON REYNOLDS: Thank you.

COMMISSIONER MELENDEZ: This is Commissioner Melendez here. Was anybody rejected?

CHAIRPERSON REYNOLDS: Mr. Staff Director?

STAFF DIRECTOR DANNENFELSER: Well, I don't believe so, not from the ones that were sent from the regional office. Now, the regional office does not necessarily include every application that they receive. It's not someone that they necessarily put forward. But I don't recall dropping anybody that came from the regional office on this particular SAC.

CHAIRPERSON REYNOLDS: Other questions?

(No response.)

CHAIRPERSON REYNOLDS: Commissioner Melendez, how do you vote?

COMMISSIONER MELENDEZ: No.
CHAIRPERSON REYNOLDS: Commissioner Kirsanow?

COMMISSIONER KIRSANOW: Yes.

CHAIRPERSON REYNOLDS: Commissioner Yaki?

COMMISSIONER YAKI: No.

CHAIRPERSON REYNOLDS: Commissioner Heriot?

COMMISSIONER HERIOT: Yes.

CHAIRPERSON REYNOLDS: I am sorry? Commissioner Heriot?

COMMISSIONER HERIOT: Yes.

CHAIRPERSON REYNOLDS: Commissioner Gaziano?

COMMISSIONER GAZIANO: Yes.

CHAIRPERSON REYNOLDS: I vote for this slate of candidates also. We have two votes: Commissioners Melendez and Yaki. The remaining commissioners voted for it. The motion passes.

- MISSOURI SAC

CHAIRPERSON REYNOLDS: Next up we have the Missouri State Advisory Committee. I move that the Commission recharter the Missouri State Advisory Committee.
Under this motion, the Commission appoints the following individuals to that committee based on the recommendations of the Staff Director: Michael Podgursky, Timothy Asher, Joan Bergstrom, James Buford, Shamed Dogan, Eugene Dokes, Tyrone Flowers, John Grimwade, Sandra Mayer, Jalesia McQueen, Ronnie Podolefsky, Beverly Randles, Steven Schieber, and Donayle Whitmore. Pursuant to this motion, the Commission also appoints Michael Podgursky as chair of the rechartered Missouri State Advisory Committee.

These members will serve as uncompensated government employees. Under this motion, the Staff Director is authorized to execute the appropriate paperwork.

Is there a second?

COMMISSIONER GAZIANO: Second.

CHAIRPERSON REYNOLDS: Discussion?

COMMISSIONER YAKI: This is Commissioner Yaki. I have real concerns and continuing concerns over the appointment of Timothy Asher to the Missouri State Advisory Committee. I spoke against him prior.

He is someone who has continued to --
has had three different ballot initiatives and was already struck down because they were misleading in terms of what they purported to say versus what they purported to do on the issue of affirmative action/civil rights.

He is someone who I think has the absolute wrong qualifications for a body related to this Commission. And I strongly oppose his inclusion in the SAC.

CHAIRPERSON REYNOLDS: Commissioner Yaki, if I understand you -- correct me if I am wrong -- the primary reason you are opposing him is his opposition to racial preferences?

COMMISSIONER YAKI: No. I am talking about the fact that he has had three different ballot initiatives kicked out by courts of law because they were attempting to mislead the voters as to what he said he was doing versus what he is trying to do.

The fact that what he is doing is objectionable to me is interesting and salient in terms of my objection to his ideology, but the fact that he has three times been knocked down by the courts for attempting to mislead voters is
something that does trouble me.

COMMISSIONER GAZIANO: Mr. Chairman?

CHAIRPERSON REYNOLDS: Did the court conclude that he attempted to mislead the voters?

COMMISSIONER YAKI: They knocked his stuff off the ballot because they said what it was ascribed versus what it would do did not comport.

COMMISSIONER GAZIANO: Mr. Chairman, this is Commissioner Gaziano. The outrageousness of the courts' rulings subject to appropriate public commentary and review can -- certainly this Commission should not do further injury to this gentleman by adopting court decisions that are outrageous or implying that we agree with outrageous and obnoxious court rulings that are against the real law of the State of Missouri and the democratic process.

CHAIRPERSON REYNOLDS: I have not reviewed the court opinion. And that is why I asked Commissioner Yaki whether the court concluded that Mr. Asher attempted to mislead the voters of Missouri. And if I understand --

COMMISSIONER GAZIANO: There was no --

CHAIRPERSON REYNOLDS: -- it right,
the answer is no.

COMMISSIONER GAZIANO: Yes. There was no finding on intent, nor could there be. These ballot initiatives were very close to those that ran in California, Washington State, Colorado. Most passed. The Colorado one failed. But the ballot initiative was very close to Michigan and all of those other states.

COMMISSIONER YAKI: It may have been close, but apparently it didn't hit muster.

CHAIRPERSON REYNOLDS: So but for the court's decision, Commissioner Yaki, would you have an objection to him?

COMMISSIONER YAKI: Of course, I would have an objection to him. That goes without saying.

CHAIRPERSON REYNOLDS: Well, no. Actually --

COMMISSIONER YAKI: An objection, Mr. Chair --

CHAIRPERSON REYNOLDS: -- it would be helpful if you did say --

COMMISSIONER YAKI: An objection, Mr. Chair, on ideology is one thing. An objection to
the fact that I think he is unfit to serve on the SAC is another.

    CHAIRPERSON REYNOLDS: Yes. But I'm trying to find out what is the basis for your belief that he is unfit.

    COMMISSIONER YAKI: I believe that his continued efforts that have met with successful court challenges time after time on these issues, where the lawsuits as they were filed were alleging a number of serious substantive and procedural errors --

    CHAIRPERSON REYNOLDS: But for that, you would support him?

    COMMISSIONER YAKI: No. I didn't say that. Why would you think --

    CHAIRPERSON REYNOLDS: That was the question.

    COMMISSIONER YAKI: -- I would say that? I am saying that those factors for me -- there are a number of people on these commissions, these State Advisory Committees, Mr. Chair, that I object to.

    I object to the fact that the majority removed people with substantial institutional
memory in history who brought a lot of good things to the table.

    I object to the fact that the State Advisory Committees have in many instances been skewed, both politically, demographically, and by gender.

    I object to the fact that there are people on there who I believe in their hearts have no interest at all in civil rights other than the dismantling of the civil rights laws of this country. I object to the fact that this has been a continuing practice for five years, and I cannot wait for the moment when that ceases.

    But I particularly object in this particular instance to this one individual, who I believe has shown time and again by his actions that his view of civil rights is contrary to the mission of this Commission.

    And what people express in their writings, what people express in public versus what people have done time and again is to me worthy of at least some exceptional notice by me at this Commission.

    But no. By no means does this mean
that absent his activities, I would object to his inclusion on the Commission. I think the fact that I abstain or have no votes on probably 90 percent of the SACs as they have been presented to this Commission speaks for itself.

CHAIRPERSON REYNOLDS: Okay. Thank you. Thank you for the clarification. You raise some interesting points. If I understood you --

COMMISSIONER YAKI: You will never understand me, Mr. Chair.

CHAIRPERSON REYNOLDS: Well, I thought that I said "if." And I'm sure that you'll correct if I get it wrong. But if I understood you, Commissioner Kirsanow probably would not qualify in your estimation to being on the Commission because of his views.

COMMISSIONER YAKI: I am not going to answer hypotheticals, but you can draw your own conclusions.

CHAIRPERSON REYNOLDS: Okay. Any other discussion?

COMMISSIONER MELENDEZ: Yes. Commissioner Melendez. It seems this one is skewed to the right also. They've got two solid
Dems, it seems like to me. And the rest are six 
Republicans, five Independents. I just have a 
problem with that.

CHAIRPERSON REYNOLDS: Okay. Just to 
give you a better sense of how I approach it, 
Commissioner Melendez, I don't pay all that much 
attention to the party affiliations. I look at 
the ideology. I am trying to ensure that there is 
a diversity of viewpoint.

And so according to my view of their 
ideology, we have three folks who have tagged to 
the left, four who tag to the right, and seven 
unknowns.

I guess we have a different method for 
determining balance.

COMMISSIONER MELENDEZ: My other 
comment -- let's just vote.

CHAIRPERSON REYNOLDS: Commissioner 
Melendez, how do you vote?

COMMISSIONER MELENDEZ: No.

CHAIRPERSON REYNOLDS: Commissioner 
Kirsanow?

COMMISSIONER KIRSANOW: Yes.

CHAIRPERSON REYNOLDS: Commissioner
Yaki?

COMMISSIONER YAKI: No.

CHAIRPERSON REYNOLDS: Commissioner Yaki?

COMMISSIONER YAKI: Oh, sorry. I thought my mike was somewhere else. No.

CHAIRPERSON REYNOLDS: Commissioner Heriot?

COMMISSIONER HERIOT: I vote yes, but I want to note that I am casting my vote especially for Tim Asher, who has done more for the principle of nondiscrimination and civil rights than Commissioner Yaki has ever done.

CHAIRPERSON REYNOLDS: Commissioner Gaziano?

COMMISSIONER GAZIANO: Yes and for Tim Asher.

CHAIRPERSON REYNOLDS: I, too, vote for this slate, especially for Mr. Asher, who has done some fine work in my view. And it's clear that my view is not shared by all.

COMMISSIONER YAKI: Therein lies the difference.

- DISTRICT OF COLUMBIA SAC
CHAIRPERSON REYNOLDS: Okay. I move that the Commission recharter the District of Columbia State Advisory Committee.

Under this motion, the Commission appoints the following individuals to that committee based on the recommendations of the Staff Director: Virginia Ford, Sonia Gutierrez, Clyde Hart, Vernon Dexter Ingram, Winona Lake Scott, Daniel Lips, Alan Palmer, Laurence Pearl, Denyse Sabagh, James Sandman, Gregory Squires, Steven Wagner, Ken Weinstein. Pursuant to this motion, the Commission also appoints Daniel Lips as the chair of the rechartered District of Columbia State Advisory Committee.

These committee members will serve as uncompensated government employees. Under this motion, the Commission authorizes the Staff Director to execute the appropriate paperwork.

Is there a second?

COMMISSIONER GAZIANO: Second.

CHAIRPERSON REYNOLDS: Discussion?

COMMISSIONER YAKI: Mr. Chair, this is Commissioner Yaki. If you go beneath the D-R-I-unknown category, this is a commission that
is seriously out of whack.

I would say nearly a third or more than a third of the members are concerned only in charter schools that are school choice. Three-quarters of the slate is male.

I mean, in any iteration of how you would have anything that would be roughly representative at all of the District of Columbia, this does not scour at all.

And I think that this is an interesting body considering the demographics and characteristics of the District of Columbia unless, of course, you are excluding the people who live here. So I am going to be voting a strong no on this.

And just a slight response to Commissioner Heriot, I would rather be known for doing no harm to civil rights and being seen as having done nothing, as apparently you seem to think, versus to be seen as someone who has actively sought to dismantle and destroy the gains made under the Civil Rights Act over the past 50 years. And if that is our point of difference, that certainly is our point of difference, I
think, between the two of us.

CHAIRPERSON REYNOLDS: And it is an extremely important difference. And, quite frankly, I think that we should seek opportunities to discuss this difference.

I think that Commissioner Heriot embraces the view of nondiscrimination. Now, that does not exclude supporting policies that would help the disadvantaged, but her view -- and I guess I shouldn't speak for her. I'm sure I'm going to pay a price for this. But her view of civil rights, arguably, is the traditional view of civil rights, that the government should not distribute burdens and benefits on the basis of race.

The civil rights movement fought for a long time to get this country in a position where the majority of Americans embrace the view that the government should not distribute burdens and benefits on the basis of race.

So it is an important difference. And I welcome opportunities to continue this dialogue. And, Commissioner Yaki, maybe we should put our heads together to put something on the agenda.
where we can have an expanded discussion of this point.

COMMISSIONER YAKI: Well, Mr. Chair, it's Commissioner Yaki. I had thought that that was perhaps the intent of the national conference that you were doing. But, of course, I would always be glad to discuss this. I just will not do so in quite the same manner as perhaps some of my colleagues would.

Going on to the District of Columbia SAC, I would just again say I think this SAC, for lack of a better word, is out of whack. And we could have done a much better job.

I think it is a disservice to the District in which we sit, in which our offices are housed that we have a SAC that is so skewed out of the people who live, reside, and work here every day.

CHAIRPERSON REYNOLDS: You are right. This SAC is heavily weighted with people who have a strong interest in education reform. And, looking at the District's academic performance over an extended period of time, I think that that focus is appropriate.
Any other comments?

COMMISSIONER MELENDEZ: Yes. Commissioner Melendez. You know, I think we wouldn't have such a problem if this were more of a conservative state, you know. But when you really look at the District of Columbia, you know, the SAC really doesn't match up with that.

So I think it is skewed to the right, and District of Columbia is not skewed to the right. So I have a problem with this one. So I will probably vote against it.

CHAIRPERSON REYNOLDS: Okay. Any other comments?

VICE CHAIR THERNSTROM: Yes. Mr. Chairman? I don't have a mike. Hold on. I didn't get my mike.

COMMISSIONER YAKI: Are you still driving? Do you still think you're driving?

VICE CHAIR THERNSTROM: I feel as if I am still driving. It took me close to two hours to get in this morning, totally traumatized.

In any case, look, I don't think it is fair to characterize the question here as a division between those who are in favor of school
reform, which includes -- I mean, I happen to be a big charter advocate myself, but includes charter advocates and only charter advocates and those who are not in favor of school reform.

And I refer you to Diane Ravitch's new book, where she -- Diane Ravitch, of course, is the most distinguished educational historian in the country and has been a long supporter of both vouchers and charters and has changed her mind. These are very complicated issues, how one defines school reform. She has now come out in opposition to charters and vouchers.

And so I want us to be very careful in how we characterize people as pro or against trying to remediate the problem of schools that are failing to educate our kids.

CHAIRPERSON REYNOLDS: Thank you, Vice Chair Thernstrom. I just want to note I don't believe the issue is framed that way. Commissioner Melendez earlier -- and I don't know if you were present at the time.

VICE CHAIR THERNSTROM: No. I just walked in. So, you know, I just heard the end of this.
CHAIRPERSON REYNOLDS: All right. Any other comments?

(No response.)

CHAIRPERSON REYNOLDS: Commissioner Melendez, how do you vote?

COMMISSIONER MELENDEZ: No.

CHAIRPERSON REYNOLDS: Commissioner Kirsanow?

COMMISSIONER KIRSANOW: Yes.

CHAIRPERSON REYNOLDS: Vice Chair Thernstrom?

VICE CHAIR THERNSTROM: I am abstaining. I wish I had been here for the discussion. I am terribly sorry.

CHAIRPERSON REYNOLDS: Commissioner Yaki?

COMMISSIONER YAKI: No.

CHAIRPERSON REYNOLDS: Commissioner Heriot?

COMMISSIONER HERIOT: Yes.

CHAIRPERSON REYNOLDS: Commissioner Gaziano?

COMMISSIONER GAZIANO: Yes.

CHAIRPERSON REYNOLDS: And I vote for
it. So we have one abstentions, two nos, and four votes in favor of the motion. The motion passes.

II. PROGRAM PLANNING

- APPROVAL OF BRIEFING REPORT ON HISTORICALLY BACK COLLEGES AND UNIVERSITIES

CHAIRPERSON REYNOLDS: Okay. Next up is the HBCU briefing report. I know that the Commission approved part A of this report on the educational effectiveness of historically black colleges and universities.

The report was based on a Commission briefing held on May 5th, 2006. It reflects commissioner and panelist input. Part A was distributed in draft form to commissioners and contains a briefing overview and summary of the issue and why the Commission chose to conduct its briefing: a summary of the proceedings consisting of a synopsis of the panelists' full testimony and a synopsis of the question and answer session and, finally, copies of the panelists' written statements.

Under this motion, if the majority of the Commission votes to adopt part A of the briefing report, the Commission will then open
discussion of part B. If part A fails to obtain a majority of votes, discussion of part B becomes moot. This bifurcated vote was taken pursuant to a policy adopted by commissioners at its April 13th, 2007 business meeting.

Is there a second?

COMMISSIONER YAKI: Second.

CHAIRPERSON REYNOLDS: Discussion?

COMMISSIONER HERIOT: Well, I have got one comment.

CHAIRPERSON REYNOLDS: Yes?

COMMISSIONER HERIOT: On page 27 -- this is just a minor comment, but we might as well get it out here. Page 27, the last full line of text, the word used, "sophistical," I believe they mean sophisticated. I don't think Dr. Kim would appreciate his procedures being referred to as sophistical.

CHAIRPERSON REYNOLDS: If there are no objections, Mr. Staff Director, could you please make that correction?

COMMISSIONER YAKI: Wait, Commissioner. This is Commissioner Yaki. Hang on. Let me just look at this for a second.
CHAIRPERSON REYNOLDS: I'm sorry?

Does Commissioner Yaki have a comment?

COMMISSIONER YAKI: We may just want
to double check that.

COMMISSIONER GAZIANO: While he is
double checking, -- this is Commissioner Gaziano
-- I would ask if there is unanimous consent to
change the -- we refer to HBCUs, which are defined
in statute. And then we have these other funny
terms, "TWIs," traditionally white institutions,
which I think is very awkward. Can't we just say
"compare HBCUs with non-HBCUs" and substitute
"non-HBCUs" throughout in the report?

COMMISSIONER HERIOT: Yes. Mr.
Chairman, I would support that because I think
there is a big difference between an institution
like Old Miss, which was segregated and, hence,
traditionally white, and a school like Oberlin or
Harvard, which accepted African American students
going back very far. So I would say that Oberlin
and Harvard are traditionally open to all races
and not traditionally white.

So I think non-HBCU is probably the
right term here.
VICE CHAIR THERNSTROM: I am sorry. Is the term "TWI" in all my reading on HBCU --

COMMISSIONER GAZIANO: Pull your microphone closer.

VICE CHAIR THERNSTROM: Oh, I'm sorry. In all my reading on HBCUs, I've actually never seen the term "TWI."

COMMISSIONER GAZIANO: Nor have I. Nor have I.

COMMISSIONER HERIOT: We don't like it.

COMMISSIONER GAZIANO: There's a similar one, too, that I don't like, which is "historically white colleges and universities." I don't know that we need to be using that term either.

VICE CHAIR THERNSTROM: If those terms are never used --

COMMISSIONER GAZIANO: Why don't we just say "HBCUs" and "non-HBCUs"?

COMMISSIONER HERIOT: You get a school like Dartmouth that historically was actively, you know, Native American. So it's really not appropriate to refer to the schools across the --
CHAIRPERSON REYNOLDS: Is there any commissioner who objects to this approach?

COMMISSIONER YAKI: This is Commissioner Yaki. I don't know if I necessarily object to the approach, but I do know and I have seen the literature term of arts for a descriptive that does use -- I think there were either elite or historical or what have you.

I just think that there is an historical context here that is important not to minimize. I doubt that TWI because I have actually never seen it either is the exact term of art, but I have been in statistical comparisons on admission rates, et cetera, and test scores that various sociologists and demographers and others have had some type of characterization for at least the elite institutions that have often been used as a measure of comparison.

I would just want to make sure that we are consistent with the scholarship on this. To the extent that we're inconsistent by using TWIs, I support the amendment, but I don't want us to substitute simply "non-HBCU" if there, in fact, is a substantial body of scholarship that uses a
different term of art as a measure of comparison?

VICE CHAIR THERNSTROM: Mr. Chairman, can we somehow -- I would be actually glad to look at this question myself because I think that is a legitimate statement on the part of Commissioner Yaki. There are distinctions between majority white institutions. I mean, some have very different histories than others.

So I would be glad to look at what he common terminology is if people would like, but it seems to me we could vote on this and then subsequently amend the language slightly to reflect how the scholarship literature handles this.

CHAIRPERSON REYNOLDS: Commissioner Heriot, are you agreeable with that approach?

COMMISSIONER HERIOT: I would rather just make the change to "non-HBCUs," but, I mean, I am agreeable.

COMMISSIONER GAZIANO: The text does explain that there are different types of non-HBCUs. And so I think the -- I just don't know that we need to use these two terms, "historically white colleges and universities" and
"traditionally white institutions," even if there is some better term.

VICE CHAIR THERNSTROM: The current draft --

COMMISSIONER GAZIANO: For purposes of this draft, there are some comparisons made between HBCUs and others. And unless the comparison is to some other group, I don't know that we need to search for what those other appropriate terms might be.

CHAIRPERSON REYNOLDS: I take it we are in agreement Vice Chair Thernstrom will review the literature and report back via e-mail?

VICE CHAIR THERNSTROM: Absolutely. That's fine.

COMMISSIONER YAKI: That is fine.

VICE CHAIR THERNSTROM: That is fine.

CHAIRPERSON REYNOLDS: Any other comments?

(No response.)

CHAIRPERSON REYNOLDS: Okay.

Commissioner Melendez, how do you vote?

COMMISSIONER MELENDEZ: This is just on the main body?
CHAIRPERSON REYNOLDS: That's correct, part A.

COMMISSIONER MELENDEZ: I vote yes.

CHAIRPERSON REYNOLDS: Commissioner Kirsanow?

COMMISSIONER KIRSANOW: Is this part of a reconciliation vote?

CHAIRPERSON REYNOLDS: No. No, it isn't.

COMMISSIONER KIRSANOW: Oh, okay. Yes.

CHAIRPERSON REYNOLDS: Vice Chair Thernstrom?

VICE CHAIR THERNSTROM: Yes.

CHAIRPERSON REYNOLDS: Commissioner Yaki?


CHAIRPERSON REYNOLDS: Commissioner Heriot?

COMMISSIONER HERIOT: Yes.

CHAIRPERSON REYNOLDS: I'm sorry? Was that a yes?

COMMISSIONER HERIOT: That's a yes.
VICE CHAIR THERNSTROM: That's a very depressed yes.

COMMISSIONER HERIOT: Yes.

CHAIRPERSON REYNOLDS: I will take it.

Commissioner Gaziano?

COMMISSIONER GAZIANO: I will abstain because I just have some other concerns about some legal statements that are summarized that kind of just hang out there, but I'll probably join in the findings and recs and statements.

CHAIRPERSON REYNOLDS: Okay. I vote in favor of the motion. We have one abstention from Commissioner Gaziano. The motion passes.

Next up, part B. Under this motion, the Commission will vote individually on each finding and recommendation. Those findings and recommendations receive a majority of votes. Receiving a majority of votes would be included in the report with a vote tally and a sentence explaining any opposition vote for that item.

Okay. I am going to read each of the findings and recommendations.

VICE CHAIR THERNSTROM: Give me a page number.
PARTICIPANT: Forty-five.

COMMISSIONER HERIOT: Mr. Chairman, I am not certain that we are ready to go through these findings and recommendations now.

CHAIRPERSON REYNOLDS: Okay. Commissioner Gaziano, how do you feel about that point?

COMMISSIONER GAZIANO: I would prefer some more time myself.

CHAIRPERSON REYNOLDS: Vice Chair Thernstrom?

VICE CHAIR THERNSTROM: Well, wait a minute. Wait a minute. This briefing was held on May 5th, 2006. I am really concerned that we just keep kicking these reports down the road.

I mean, I am sure, Mr. Chairman, you agree with me there is an element of delinquency here. I don't pin it on any one commissioner, but it is. When we put out reports two years after the actual briefing, three -- I'm sorry. Three years. I've lost track of time here.

COMMISSIONER YAKI: Four years, actually. It is going to be four. May 5th, 2006.

VICE CHAIR THERNSTROM: Okay. That is
right. It will be four years. I mean, there is something troubling here. Would you agree with that?

COMMISSIONER GAZIANO: Mr. Chair, one of the reasons I am not ready to go forward is I thought we agreed many, many, many, many, many times we would release this report with the STEM report. So I don't want to do findings and recommendations in isolation of the STEM report findings and recommendations.

I kind of think the two could have been bound together. There may be a majority that doesn't want them bound together, but I thought we agreed we were going to release them at the same time.

So I don't want to go through findings and recs. I will if there is a majority but --

CHAIRPERSON REYNOLDS: Let me jump in for a moment. Vice Chair Thernstrom, as a general proposition, I do agree with you. I think that we have -- and "we," it's not just the commissioners. I think that it is the entire organization. We have contributed to this backlog of briefing reports. And I think that we need to have, yes,
more discipline in moving these briefing reports along.

I think that we also need to be mindful that objections based on non-substantive grounds that we need to check ourselves -- but Todd does raise the point that I was going to raise in that this report had been married and may have been a shotgun wedding but had been married to the STEM briefing report.

VICE CHAIR THERNSTROM: Was there a consensus on that, Mr. Chairman?

COMMISSIONER GAZIANO: I thought we had either an understanding or a vote, but --

CHAIRPERSON REYNOLDS: We have discussed this issue on several occasions. Now, I have not reviewed the transcripts. So I don't know if there is a vote. But from my recollection, STEMs and HBCU reports were going to be dealt with at the same time.

VICE CHAIR THERNSTROM: In your view, Mr. Chairman, is that really at this point, almost four years later, a reason for holding this report up? I mean, you know, there is going to become a day at which all of this work of ours is basically
moot. I mean, we're talking about, you know, a never never world in which things are promised, things don't materialize.

CHAIRPERSON REYNOLDS: Vice Chair Thernstrom, things are not as good as they need to be, but they're not that bad. In this particular issue, I don't think that this particular briefing report has a shelf life that is similar to, say, something that we did and the report that we did on health care, for example.

I don't think that this report will be stale if we really pass part A and take care of the findings and recommendations at the next business meeting.

COMMISSIONER GAZIANO: I would propose, Mr. Chairman, that we advance the STEM report. We are going to get to that, I think, later in the agenda but when we do that we advance the STEM report. But that is the way to act consistently with the understanding we have been operating on on these reports since I have joined the Commission.

VICE CHAIR THERNSTROM: If we can discuss the findings and recommendations at the
next in-person meeting, I will be happy with that.

   But I do want to mention, Mr. Chairman, that, actually, this is not a static world, the question of the HBCUs. There is a whole new issue in Mississippi once again about given the budget, state budget, crunch, about what to do with the HBCUs and whether to merge them, and what with the majority white institutions. And this is a very complicated issue. And things have changed since this report.

   You know, yes and no on your point about its shelf life. I mean, this is a very fluid situation and actually a very emotional situation seen in Mississippi at the moment.

COMMISSIONER MELENDEZ: Mr. Chairman, this is Commissioner Melendez. Let's go ahead and decide whether we're going to postpone this or not.

   I would concur that it happen at the next face-to-face meeting. I am sporadic on making the conference calls that are not the designated face-to-face meetings. So I hope that we could schedule it for the next face-to-face meeting.
CHAIRPERSON REYNOLDS: Okay. Mr. Staff Director, will the STEM report be ready by the next in-person meeting?

STAFF DIRECTOR DANNENFELSER: Yes, it will. It is ready now. So we can have it at the next meeting.

CHAIRPERSON REYNOLDS: Okay. All right. I hear a consensus to postpone a vote on the findings and recommendations until the next in-person meeting. That being the case --

STAFF DIRECTOR DANNENFELSER: Mr. Chairman? Mr. Chairman?

CHAIRPERSON REYNOLDS: Yes?

STAFF DIRECTOR DANNENFELSER: Actually, the report was sent to commissioners for their consideration, but it has not actually been sent for their review. So we have not had the comment period on the STEM report. So we could do that --

CHAIRPERSON REYNOLDS: Let's start that clock.

STAFF DIRECTOR DANNENFELSER: We can start that clock as soon as today if commissioners are agreeable to it.
VICE CHAIR THERNSTROM: Yes.

STAFF DIRECTOR DANNENFELSER: But it was sent to commissioners, just for the point of information, in September, I think September 25th. But I can resend it again today to commissioners. And then we can start the clock on the review period.

Depending on the timing of the April meeting, whether or not and the amount of the review period commissioners would be agreeable to a shorter than 30-day review period, then we could certainly have it ready in April.

I think one of the things on the agenda today is to also decide on the scheduling of the meetings in April given that the new Black Panther Party hearing is likely to be on April 23rd.

So that is another issue we have to resolve. So that is something commissioners might want to take into consideration in making that decision on the date.

- DISCUSSION OF IMMIGRATION REPORT AT PRIOR MEETING

CHAIRPERSON REYNOLDS: Okay. Next up
is the -- let's see. Commissioner Yaki, you had some questions regarding a recent briefing report?

COMMISSIONER YAKI: Yes. Thank you very much, Mr. Chair.

This has two parts. One is a general comment on the fact that it is very difficult, I believe, to with a high degree of scholastic integrity to vote for items that have been amended and for which the final amendments have not been circulated at least 24 hours prior to actual voting.

I refer to the fact that the findings and recommendations and the immigration reform report -- all we had in our packets, we thought, was the final, but, in fact, there was a final final that contained other comments and changes made by other commissioners.

And, by the way, I never even saw a circulated version of the modified final, even for circulation purposes, prior to the actual meeting, much less getting an e-mail during the meeting that would even enable me to follow along with any degree of certainty as to what changes were going to be made. That's number one.
Number two is that it also points out the difficulty of having any substantive discussion on briefing reports during teleconferences. I simply do not and cannot believe that we can fairly and adequately as a whole conduct an entire review of a briefing report simply by teleconference when documents and other things that may be required have to be e-mailed out.

E-mail has problems. The government server especially has been very actively weird lately. And I have been getting e-mails sent and receiving it two or three hours later.

Commissioner Kirsanow at one point said -- he had asked me -- he had e-mailed me the revised findings and recommendations, which I never ever saw at all. And I don't doubt that he did it, but I just don't know exactly where it ended up.

So I would simply say this is something -- and then we had a minor debacle about an e-mail vote, which I don't even want to bring up because I think it is not even worth bringing up other than to note it for the record that
someone didn't attempt but sort of attempted to try and do an e-mail vote on it, that which I think leads us to far too much potential abuse.

I would simply state that I don't believe that we should have briefing reports done via teleconference and that if there is a final final final that apparently has been circulated amongst people with tacit support or agreement, that common courtesy and transparency demand that that be released and circulated at least 24 hours prior to our actual consideration of it at a meeting.

CHAIRPERSON REYNOLDS: Comments?

COMMISSIONER HERIOT: Mr. Chairman, I don't think it's possible for us to ever be voting on findings and recommendations under a rule that changes can't be made in the meeting.

COMMISSIONER YAKI: I didn't say that.

COMMISSIONER HERIOT: That's not something that's possible.

COMMISSIONER YAKI: That's not what I said. Commissioner Heriot --

COMMISSIONER HERIOT: Anything that --

COMMISSIONER YAKI: -- that's not what
I said.

COMMISSIONER HERIOT: -- converges on that I don't think would work.

CHAIRPERSON REYNOLDS: Commissioner Yaki, what did you think?

COURT REPORTER: We're not getting a record. One person at a time, please.

COMMISSIONER YAKI: Commissioner Yaki, what did you say?

COMMISSIONER YAKI: What Commissioner Heriot did not understand apparently, whether intentionally or unintentionally, is that I was talking about the fact that we were there on the teleconference considering a final version of the findings and recommendations that apparently some people had and other people did not.

Of course, there are always going to be amendments and changes at a meeting, but at least we would be working off the same text. We did not have that opportunity at the last meeting because that final text with the changes and additions was not there.

So if there are any changes made to that text which we did not have, then we were in a
position, such as myself and others, of having to try and figure out what changes had been made, what were the changes being made during the meeting to those changes, which we did not have. And that will make --

CHAIRPERSON REYNOLDS: Commissioner Yaki, you are essentially saying that the commissioners who did not receive a copy of the proposed changes -- and that would include me -- were at a disadvantage in terms of following the discussions.

COMMISSIONER YAKI: I think a substantial disadvantage given that it was being presented as a final recommendation. It would be much different and I fully understand and agree that we cannot simply vote up and down on a final at a meeting where there are always going to be changes.

People are going to discover typos. There are going to be differences in wording, phrasing, shading, or tone. That is understandable. But when you don't have a set document to begin with, that becomes the problem.

And the problem at that last meeting
was that there was a final to be considered to
which changes or amendments might have been or
could be made or had been made that many of us did
not have any clue as to what text we were working
off of in the beginning.

COMMISSIONER HERIOT: Commissioner
Yaki --

COMMISSIONER GAZIANO: Mr. Chairman?
Mr. Chairman, this is Todd Gaziano. I agree, I
think, with the thrust of Commissioner Yaki's
statement. And you don't need to say that's
extraordinary because we did that last meeting.

It's obviously better if we can share
our proposed drafts and changes with each other.
A week is best, but where we have busy day jobs,
three days is better than two days. Two days is
better than one day.

And commissioners who don't circulate
such drafts early enough bear the burden that
their draft will be rejected. And if people will
object, they haven't had time to do so.

Where I think we come out is that I
think we all agree that the earlier we can share
our proposed drafts with each other, the better.
And we all strive to do a good job on that.

But if push comes to shove, we should all also try to work with the text that is sent because even that is better than oral modifications during a meeting. And what went on last time, although not ideal, is better than sometimes us formulating recommendations orally.

COMMISSIONER HERIOT: Mr. Chairman, my recollection is that I had sent in some notions about how these things should be changed maybe a week before. I think maybe Commissioner Gaziano actually sent in some proposed changes.

COMMISSIONER GAZIANO: Yes. I don't remember whether I circulated mine. Mine were just more -- I understood that Pete was working on a version. And so, rather than have three different drafts going around, I think I sent some of my mostly grammatical changes to Pete.

Sometimes that is the most efficient way of doing it. But we all should then work to make sure that we circulate whatever it is we want to propose at a meeting as soon as we practicably can.

COMMISSIONER HERIOT: The point is
some minor modifications got sent. I am not sure whether I circulated mine broadly or just to the Chairman's special assistant, but they didn't get made. And that was just error. Ordinary office procedure, things don't always get put the way they should be.

You know, that's why there seemed to be more last minute changes at that meeting than were actually last minute. They were, in fact, changes that had been suggested earlier and I think were generally going to be noncontroversial.

CHAIRPERSON REYNOLDS: Well, I think what I am hearing is that we are in agreement that there will be changes, but it is better that substantive changes be bound and circulated as soon as practicable.

Now, I think that we have always been in agreement on this point. And it's a good thing that Commissioner Yaki raised this issue. But should there be a penalty for failing to provide a written revision in a timely fashion in a substantive manner?

COMMISSIONER GAZIANO: Whenever they are shared, they are generally better than oral
modifications. So I don't think that we should try to have some sort of automatic penalty. They're still preferable to the kind of oral musings we sometimes come up with, which still improve the document from time to time.

COMMISSIONER YAKI: This is Commissioner Yaki. The problem is not whether we as eight individuals can understand and follow one another's musings during a discussion. There is a greater principle here at stake involving the transparency of the actions that we take at the Commission.

My point about this was twofold, one which I have still not heard a response on. One, I don't believe that because of the nature of how we treat briefing reports and the kinds of things that go on and changes that get made that I would strongly, strongly believe that we should not be doing briefing reports during teleconferences, number one.

Number two is that if we are going to be working from a text that is deemed as final and understood by others -- and I am going to say it the way it is, that the majority has deemed to be
what it is to be their final document that they are working on or a majority of the commissioners, that there is some obligation to at least have that in a readily available format that is publicly available the day before. So when we are making changes the day of, there is a constant and consistent base of reference from which to view and read these changes.

When we do this on a teleconference, the public has no idea what it is that we're working off of. We cannot photocopy them and put them out here for the public to come and pick up during the course of a meeting.

We cannot e-mail it out to the general -- to people who are on the line as a matter of course or posted on our website immediately for anyone to follow.

That is a serious I think transgression of part of our role, which is to do this openly, publicly, and in a way that inspires confidence in the integrity of our process.

CHAIRPERSON REYNOLDS: Commissioner Yaki, you raise two points. The last one I don't believe we have ever used that procedure where
proposed revisions to --

COMMISSIONER YAKI: No, no.

CHAIRPERSON REYNOLDS: -- reports of --

COMMISSIONER YAKI: No.

CHAIRPERSON REYNOLDS: -- assumptions at the meeting --

COMMISSIONER YAKI: Mr. Chair? Mr. Chair, I did not say prior to a meeting. Let's not confuse things here. With regard to the specifics of the immigration report, there was a final draft being worked off of in the position of Commissioner Kirsanow and some others, not you, not me and others, that I had issues with because we were working off the same --

CHAIRPERSON REYNOLDS: It wasn't a final draft.

COMMISSIONER YAKI: Well, whatever it is that --

CHAIRPERSON REYNOLDS: We had revisions. Some people received copies of the revisions prior to the meeting. Some commissioners didn't. There was a discussion regarding these revisions, and there was a vote.
Now, these revisions could have been accepted or rejected.

VICE CHAIR THERNSTROM: Mr. Chairman, see, I've got a problem with that statement. Some commissioners received copies prior to the meeting. I mean, I have had a general feeling that there have been a number of instances in which chosen, trusted commissioners receive copies of documents that I don't see, Commissioner Yaki doesn't see, Commissioner Melendez doesn't see.

CHAIRPERSON REYNOLDS: Are you referring to revisions because --

COMMISSIONER GAZIANO: Yes. Let me be clear. I assume that --

CHAIRPERSON REYNOLDS: Well, hold on a minute. The point at play here is revisions.

COMMISSIONER GAZIANO: Yes.

CHAIRPERSON REYNOLDS: I don't expect Commissioner Yaki to share his confidential communications that he has with the Vice Chair or any other commissioner with me. Now, as for substantive changes that he is going to make at a Commission meeting, I think that it's better. I think that there is a consensus of folks who
believe that it's better if those issues were circulated.

COMMISSIONER GAZIANO: It is certainly better if they're -- Mr. Chairman, if I know Ashley is taking the lead on some issue and I don't feel strongly about it but I want to make some suggestions to him, it's certainly more efficient for me to share them, my thoughts and reactions, with him or with the Vice Chair if there is an issue I know she is working on a revision on.

So I doubt seriously that anyone is even claiming that our staff or the Staff Director is sending things out selectively. But if we want to confer with each other, that not only is -- there's nothing improper in that, but that's efficient.

Sometimes my suggestions are just in the form of a or my revisions are just in the form of a suggestion to the person whom I know is going to be circulating something to the rest of the group.

VICE CHAIR THERNSTROM: But if five people come into a meeting having seen a draft --
COMMISSIONER GAZIANO: That was not the case in the last time. I don't know how many people saw it. I sent some things to --

CHAIRPERSON REYNOLDS: As I said, I didn't receive the -- well, at least at the time of the meeting, I had not reviewed the revisions. I'm not sure if they were sent to me or not, but the bottom line is sharing, having conversations with like-minded commissioners, having discussions with like-minded commissioners, that is not improper. We are prevented from making decisions unless we follow the appropriate procedures. But our procedures do not prevent us from having discussions about substantive issues.

COMMISSIONER YAKI: Mr. Chair, this is going way off my topic. That has --

CHAIRPERSON REYNOLDS: Okay. You know what, let's --

COMMISSIONER YAKI: That has nothing, nothing --

CHAIRPERSON REYNOLDS: Let's also talk about the issue that you put on the table about briefing reports being discussed and voted on during teleconferences.
COMMISSIONER YAKI: I think it is part and parcel of the problem that we have here. Let's just review. Let's just review these facts so that we understand where it is I am coming from.

At the meeting, at the teleconference meeting, Commissioner Kirsanow starts reading from his latest draft of findings and recommendations.

Now, we had in our packet two sets of findings and recommendations, one proposed by staff, one proposed by Commissioner Kirsanow. It became quickly apparent as Commissioner Kirsanow was reading off of his proposed findings and recommendations that they were distinctly different than what we had in our agenda packets, number one.

Number two, we never got an e-mail of that beforehand when apparently some of these changes had been made.

Number three, we never got an e-mail during the entire meeting about any of these changes that were going on. So it was very difficult to follow along.

That was my concern. It is not about the conferring process. It is not about the
sharing of notes. It is not about the fact that we need to have every single amendment in writing ahead of time before the Commission meeting published and in 30 copies or what have you.

It has everything to do with simply the fact that we were there. Commissioner Kirsanow was working off a final version for comment and for comment and amendment by others that many of us had never seen and never did see during the point of that.

That brings me, then, to the next question, which is it is difficult to do briefing reports under those sorts of conditions, because, unlike a situation where we could raise here, we could not say, "Well, that is a lot of changes. Could I see that in writing?" And we could kick it over toward later in the day, have someone type it up, make some copies. We'll have it for all of us to follow along.

We can't seem to do that, nor can we make those copies available to anyone here who wants to follow along and find out what it is that we're doing, which I think is part of what we should be able to do as well.
I mean, it should not just simply be a bunch of people sitting around stirring the magic brew and then presenting it to people as a fait accompli without understanding what went into it.

We should be able to if we need to give people the opportunity to understand and follow along what it is that we're doing. And that simply is not available in a teleconference.

E-mail. The e-mail system is inherently unreliable. There are time lags involved, et cetera, et cetera. And if you choose not to be here in person to do it, then you do so at your peril. But when we are all doing it in this way, it just becomes especially, I think, troublesome for efficiency, accuracy, integrity, and transparency reasons.

CHAIRPERSON REYNOLDS: Commissioner Yaki?

COMMISSIONER KIRSANOW: Mr. Chairman?

Mr. Chairman, this is Kirsanow. If I may? I think Commissioner Yaki makes a perfectly valid point. And I think a better practice is clearly to endeavor to do these things in person. And I share his concern.
I don't know that I would have been able to follow along had I not had something in front of me. And even if you're doing it by phone, it's more difficult to do that, obviously, than in person.

Second, with respect to the e-mails, I know that there was some type of a screw-up with respect to circulating revised versions. I know that in the course of the teleconference itself.

An e-mail that I had sent to Commissioner Yaki had bounced back a couple of times. I am not sure, Commissioner Yaki, if it finally went through. You had given me another e-mail address. But clearly that highlights the difficulty with doing it by teleconference.

COMMISSIONER YAKI: Yes. Actually, Commissioner Kirsanow, it never went through on any of the alternatives I gave you.

COMMISSIONER KIRSANOW: Yes. And that I think goes to the point that Commissioner Yaki is making. I think that we tried to do our best last time around.

Commissioner Yaki I think is describing a best practice that we should endeavor
to follow.

CHAIRPERSON REYNOLDS: Okay. So is there a consensus that we will endeavor to discuss and vote on briefing reports at in-person meetings?

COMMISSIONER HERIOT: Yes.

COMMISSIONER KIRSANOW: Yes.

VICE CHAIR THERNSTROM: Yes.

COMMISSIONER GAZIANO: I think that is generally best, but I don't know that we should think of this as any hard and fast rule, especially when we're talking about the backlog of reports. There might be some that are simpler and we anticipate a large amount of agreement on that we can cover in a telephone meeting.

CHAIRPERSON REYNOLDS: Okay. I think that we have a consensus around this issue. I think that it is clear that we didn't vote on a hard and fast rule, but that will be our default position.

COMMISSIONER YAKI: Thank you.

- DISCUSSION OF LETTERS TO HOUSE OF REPRESENTATIVES AND YOUNGSTOWN, OHIO

CHAIRPERSON REYNOLDS: Next up, Pete,
COMMISSIONER KIRSANOW: Yes. I would move that we adopt and send out these two letters. I'll just make a brief point as to both. I think the first letter, the health care letter, went out on Wednesday. And I trust that that was sufficient time for people to review it, especially since it is virtually identical to a letter that had been considered a couple --

COMMISSIONER YAKI: Commissioner Kirsanow, this is Commissioner --

COMMISSIONER KIRSANOW: -- a months ago. It was simply sent to House members since they will be voting on the Senate version of the bill that was the subject matter of the previous letter that we sent out.

The second letter only went out yesterday, again because of an e-mail misunderstanding. I don't know if commissioners have had sufficient time to review that.

And I would be more than willing to defer consideration of that letter to the next business meeting. However, I do think that that is simple enough that maybe we could consider it
today. That letter is to the City of Youngstown. That is maintaining the bifurcated hiring list for police and fire in clear violation of Title VII and the Ohio vice code and a host of the second prong of Steelworkers versus Weber in its progeny, Johnson versus Transportation, and even some equal protection cases. And we would be inconsistent with Grots and Grutter versus Bollinger in addition to, let me see, City of Cleveland versus Firefighters.

What is peculiar about it is that the Seventh District Court of Appeals here in Ohio had already ruled that the city officials would not have sovereign immunity upon a final adjudication on the merits of this matter. Yet, they are proceeding to move forward with it.

So it alerts them as to the legal perils involved and that this is in clear violation of a considerable amount of precedent.

COMMISSIONER YAKI: Mr. Chair, this is Commissioner Yaki.

CHAIRPERSON REYNOLDS: Yes?

COMMISSIONER YAKI: I did receive the Youngstown letter. I did not receive the health
care letter.

VICE CHAIR THERNSTROM: Neither did I.

COMMISSIONER YAKI: And neither did Commissioner Melendez, and neither did Commissioner --

COMMISSIONER GAZIANO: It is essentially one paragraph and one sentence long. I think it has been distributed in this room. Is it possible we could take 30 seconds for you all to read it?

COMMISSIONER KIRSANOW: Mr. Chair, I'm sorry. This is Kirsanow again. There must be something really wrong with my computer, then. I sent this to everyone on, at least according -- I am looking at the e-mail right now.

COMMISSIONER YAKI: What date?

COMMISSIONER KIRSANOW: On Wednesday at 6:00 p.m. And the e-mail address that I sent it to -- and, again, I'm not disputing anything that anyone is saying here.

COMMISSIONER YAKI: Wednesday at 6:00 p.m.

COMMISSIONER KIRSANOW: I would like to verify what the appropriate e-mail addresses
are because I have here that I sent it to -- I'm trying to determine what the e-mail is. I don't want to waste all my time, but --

COMMISSIONER GAZIANO: John Martin sent the health care letter out yesterday on your behalf, Pete.

COMMISSIONER KIRSANOW: Yes. And I personally sent out the health care letter on Wednesday at 6:09 p.m. Eastern time. And I did send it to Commissioner Thernstrom at least according to this -- and maybe my e-mail is incorrect, but Commissioners Thernstrom, Yaki, Melendez, in addition to the remaining commissioners on the Commission.

COMMISSIONER YAKI: I am looking at my e-mail right now for that date, and I don't show it. I do have John's e-mail from yesterday, but I did not get yours, Commissioner.

COMMISSIONER KIRSANOW: Commissioner Yaki, offline --

COMMISSIONER YAKI: I am going to --

COMMISSIONER KIRSANOW: -- if I can get your correct e-mail address?

COMMISSIONER YAKI: I will send you my
COMMISSIONER KIRSANOW: I have in the past sent out e-mails to you that have not --

COMMISSIONER YAKI: Maybe I just have a spam filter for Kirsanow.

CHAIRPERSON REYNOLDS: Okay. This letter, at least from my vantage point, which may not be shared by others, is a letter that can be reviewed in short order. The health care letter is similar to one that we have already reviewed. I mean, if commissioners would like to take time to review that. Would that approach work?

COMMISSIONER YAKI: Mr. Chair, this is Commissioner Yaki. Since this is essentially a cover letter to a letter we have already sent and it simply triggers the merry-go-round by which Commissioner Melendez and I sent another letter, that is fine. I am ready to deal with it.

CHAIRPERSON REYNOLDS: Okay. That is in connection with the health care. What about the Youngstown letter?

COMMISSIONER GAZIANO: Why don't we take them one at a time?

COMMISSIONER YAKI: Well, I would like
more time on the Youngstown, as Commissioner Kirsanow offered, to go over it more.

    COMMISSIONER KIRSANOW: Mr. Chair, I have absolutely no problem with that. This is not a matter of greater urgency. This thing is going to be pending for at least the next several weeks.

    CHAIRPERSON REYNOLDS: Okay. So in connection with the health care letter, Commissioner Melendez, how do you vote?

    COMMISSIONER MELENDEZ: I vote no because I don't have it, but I'll try to read it later.

    CHAIRPERSON REYNOLDS: Commissioner Kirsanow?

    COMMISSIONER KIRSANOW: Yes.

    CHAIRPERSON REYNOLDS: Vice Chair Ternstrom?

    VICE CHAIR THERNSTROM: No. I voted no on the original one. I am going to vote no on this one, too.

    CHAIRPERSON REYNOLDS: Commissioner Yaki?

    COMMISSIONER YAKI: Nope.

    CHAIRPERSON REYNOLDS: Commissioner
Heriot?

COMMISSIONER HERIOT: Yes.

CHAIRPERSON REYNOLDS: Commissioner Gaziano?

COMMISSIONER GAZIANO: Yes.

CHAIRPERSON REYNOLDS: I vote for it. We have four votes for it and three against. The motion passes.

We will postpone consideration of the Youngstown letter.

Next up would be --

COMMISSIONER HERIOT: Wait, wait. Mr. Chairman, I have a comment on the Youngstown letter.

CHAIRPERSON REYNOLDS: Yes?

COMMISSIONER HERIOT: And that is, has any thought been given to whether or not this would violate the race norming prohibitions of the Civil Rights Act of 1991?

COMMISSIONER KIRSANOW: Commissioner Heriot, I had given that some thought. I haven't looked into it in any great detail, although I did revisit it last night, in fact. I simply thought that letter was fine as it stood. And if someone
wants to make an amendment to it in the interim between now and the next business meeting, I will be more than interested in receiving it.

COMMISSIONER HERIOT: Okay.

- DISCUSSION OF STATEMENT OF DEPARTMENT OF EDUCATION

CHAIRPERSON REYNOLDS: Okay. Next up, recent developments on OCR. Who raised this issue? Was it Commissioner Gaziano?

COMMISSIONER GAZIANO: Yes. And I don't know enough about the details to talk in any length. And that's I suppose the point that I want to raise. Unless other commissioners are that familiar and can talk on it, that's fine, but I was going to suggest that we instruct the Staff Director. And maybe he could task some of his attorney advisers to make some inquiries from the Department of Education, OCR, and elsewhere as to what exactly they have in mind.

The Commission has sent a letter to one school district, I believe it was, at the negative effect of trying to norm discipline, that that may cause them to give too little discipline to some students who need it and too much on
others.

The Department of Education's sort of threat that they may engage in disparate impact reviews of that issue and AP and other issues is just worthy of us looking into, I think.

So I don't know if other commissioners want to comment, but I at least want appropriate inquiries to be made so that we can discuss that at a future meeting.

COMMISSIONER HERIOT: Mr. Chairman, I just wanted to say that I think that this is a very important issue, particularly the disparate impact analysis used in school discipline. So I would very much like the Commission staff to look into this.

VICE CHAIR THERNSTROM: Mr. Chairman, for those of you who are not aware of it, although it was circulated this morning, I have a very long piece on the issue of disparate impact and discipline actions and the implications of the policy for that.

I decided, for once, to use the American Enterprise Institute website, instead of my usual, since that is my ostensible home. And I
believe that that has been circulated. It is, as I said, quite a long article exploring that whole issue.

COMMISSIONER GAZIANO: I take it, Vice Chair Thernstrom, that you would agree this is something that we need to look into further at the Commission?

VICE CHAIR THERNSTROM: I see that Tim has copies of it right here. Yes, sure. I mean, I know a lot about this issue, some of which is in this and some of which is in my book No Excuses, which has a very close statistical analysis of disciplinary problems, as correlated with, for instance, single parent households and so forth, but I always welcome more work on it.

But it is important to say that a little head start, there is a little head start, here in this, you know, as blog articles go are rather extensive, piece of mine.

CHAIRPERSON REYNOLDS: Okay. Next up is a discussion of our schedule for April.

COMMISSIONER GAZIANO: Could I just ask, Mr. Chair -- I don't think we need a vote, but from the Staff Director whether that's
acceptable to you to begin a review of this and to ask for appropriate information from OCR.

STAFF DIRECTOR DANNENFELSER: Yes. We will do that. I guess just a clarification, if you would like us to request a meeting or to see what kind of information we get through telephone inquiries and so on and then perhaps follow-up meeting once we can get some information.

COMMISSIONER GAZIANO: At this point I would leave it to your discretion as to what is reasonable and necessary.

STAFF DIRECTOR DANNENFELSER: Okay. Thank you.

- DISCUSSION OF COMMISSION MEETING SCHEDULE IN APRIL

CHAIRPERSON REYNOLDS: Okay. At the October 30th, 2009 meeting, the commissioners voted to hold a business meeting, an in-person business meeting, on April 16th and a telephonic business meeting on April the 30th, 2010.

At the February 26th, 2010 telephonic meeting, the commissioners agreed to reschedule the hearing date for the new Black Panther Party investigation to April 23rd, of course, the
witnesses if their circumstances changed on a date
that would secure the participation of a critical
mass of both witnesses and commissioners.

Because a hearing and a business
meeting the same month might necessitate
commissioners to travel to D.C. twice, I want to
open up for discussion whether commissioners are
happy with the existing meeting schedule for that
month.

I would just add that we have a lot of
work to do. And I would recommend that we keep
the current schedule, but I wanted to open it up
for discussion.

COMMISSIONER YAKI: Mr. Chair, this is
Commissioner Yaki. I am fine with it.

COMMISSIONER MELENDEZ: Commissioner
Melendez here. On the 16th if we hold -- I can't
come out twice, you know, on the 16th and the
following week. So if we take the 16th, I'm going
to call in again on that date and then come for
the hearing the following week. So that is kind
of my schedule.

CHAIRPERSON REYNOLDS: Okay.

COMMISSIONER HERIOT: Mr. Chairman, I
am fine with it.

CHAIRPERSON REYNOLDS: Vice Chair Thernstrom?

VICE CHAIR THERNSTROM: I am sorry. I got distracted. What are we fine with?

COMMISSIONER YAKI: Vice Chair Thernstrom, I am fine with the fact that there are two in-person business meetings in April: on the 16th and on the 23rd.

VICE CHAIR THERNSTROM: I have to look at my calendar here. I will be back to you in a minute.

COMMISSIONER YAKI: And the --

VICE CHAIR THERNSTROM: The 16th?

That's --

COMMISSIONER YAKI: The Western contingent seems to be okay.

VICE CHAIR THERNSTROM: The 16th and 23rd?

COMMISSIONER MELENDEZ: A question.

CHAIRPERSON REYNOLDS: Yes?

COMMISSIONER MELENDEZ: On the 23rd, how solid is that date? You know, are we saying there's a 50/50 chance that that could change?
CHAIRPERSON REYNOLDS: Well, unless we have another snowstorm, I think that it's up above 98 percent.

COMMISSIONER MELENDEZ: Okay. Sounds good.

CHAIRPERSON REYNOLDS: Now, before we go on --

COMMISSIONER HERIOT: Hurricanes, earthquakes, and tsunamis.

VICE CHAIR THERNSTROM: Mr. Chairman, I am fine with the 16th and 23rd. It's okay, works.

- DISCUSSION OF TIMELINES FOR CONSIDERATION OF BRIEFING REPORTS & SCHEDULING OF BRIEFINGS

CHAIRPERSON REYNOLDS: Okay. Next up is a discussion of timelines for consideration on briefing reports and scheduling of briefings. Yesterday the Staff Director e-mailed a list of many of the Commission's pending projects.

Several briefing reports are currently available for commissioner review. Others are in final stages of staff preparation. The Staff Director's list also contains currently scheduled due dates for certain projects and proposed dates
for others.

Mr. Staff Director, please provide us with an update on the status of these and other pending briefing reports. Also please discuss your suggestion for scheduling the pending briefing on age discrimination and employment.

STAFF DIRECTOR DANNENFELSER: Thank you, Mr. Chairman.

I think the most immediate thing would be the STEM report that we discussed a little while ago, the decision out to have the meeting on April 16th in person, which is five weeks from today.

We have to allow for the commissioners to review the draft, then to send comments back to staff or staff to make appropriate changes and then send the report back out to commissioners so that they can review it, usually a week in advance of the meeting.

If we factor in that week of review for the commissioners and a week for the staff to incorporate the changes that come from the commissioner comments, that would leave three weeks from today for the review period.
And so I would just put on the table the idea of if commissioners would approve a three-week review period to submit their comments on the STEM report.

And if so, I think we could then accommodate making that report available for consideration at the April 16th meeting.

CHAIRPERSON REYNOLDS: Is that acceptable to everyone?

(No response.)

CHAIRPERSON REYNOLDS: Okay. I'll take silence as yes, that's fine.

STAFF DIRECTOR DANNENFELSER: Okay. Right now you did make note of the list I sent out yesterday. Let me just review that and then go to some of these questions that were raised.

Just a reminder that the rebuttals on the MEPA report are due Monday evening at midnight Pacific Time and that we also then have the statements, commissioner statements, on the illegal immigration report due on March 30th.

I believe that the May 14th meeting would be a good time to do the age discrimination and employment. I think that if we make that
decision today, that would give staff enough time
to contact panelists and to put a meeting, a
briefing binder together and get that out to
commissioners. So that would be --

CHAIRPERSON REYNOLDS: Mr. Staff
Director, what was that date?

STAFF DIRECTOR DANNENFELSER: May
14th.

CHAIRPERSON REYNOLDS: Thank you.

STAFF DIRECTOR DANNENFELSER: The
other report that is out there right now is the
Native Americans in border towns that was sent out
on March 2nd. And commissioners were asked to
submit comments by April 1st.

The statements on the HBCU report
would be postponed from this April 11th date.
That was based on the premise that the report
would be finalized today.

But since we are going to presumably
do the findings and recommendations at the April
16th meeting, I guess we would have to agree on a
timetable of perhaps 30 days from that point if
the findings and recommendations are approved at
that point, that by the middle of May perhaps the
statements could be due.

And, therefore, the rebuttals on the HBCU, which is now listed as May 12th, would presumably be pushed back to the second week or the third week in June.

COMMISSIONER GAZIANO: Mr. Staff Director, if you don't mind me going back to the age discrimination and employment briefing? I do remember we discussed that topic. Did we vote to approve that briefing? I just don't remember.

STAFF DIRECTOR DANNENFELSER: That was the one that, yes, commissioners did vote to approve that as the first choice.

COMMISSIONER GAZIANO: And, if you don't mind, I will have someone request the concept paper for that one. Which commissioner took the lead on that if he or she won't own up?

STAFF DIRECTOR DANNENFELSER: I know. Yes, Commissioner Melendez had --

COMMISSIONER GAZIANO: That's right. That's right. Okay.

STAFF DIRECTOR DANNENFELSER: -- proposed that, right. And it was one that produced a good deal of consensus, but I believe
Commissioner Melendez is the one who proposed it.

COMMISSIONER GAZIANO: Sure.

COMMISSIONER YAKI: He was nice.

COMMISSIONER GAZIANO: That was the tie-breaker. He was nice.

STAFF DIRECTOR DANNENFELSER: The Blaine Amendments report is one I sent out on Tuesday of this week, on March 9th. So that is another report that is available for commissioners. That would be one that we have to set a timetable for review on that. But I think with some of these other things going on right now, that commissioners might want to wait a little while on that but hopefully not too long.

The health disparities report is one that I know the commissioners are very anxious to consider that very soon. And there was some discussion today about that being a time-sensitive report. And I would concur with that description.

So the editorial and legal sufficiency reviews are now being conducted. I have received, actually, one editorial review has been submitted. And the legal sufficiency review has been submitted. So we are waiting on two of the
editorial reviews to come back on the health disparities report.

I did give people a deadline of March 19th. And perhaps they will be able to get those back a few days before that date.

So we will give that a high priority at the staff level once we get all the comments on the health disparities report to get that one ready for commissioners' consideration. But that would be one I think that might be considered in June. We'll look at that as a possibility to do in June.

The English in the workplace draft, I got the final draft submitted from the Office of General Counsel this morning. And that has received some review.

We still need a legal sufficiency review on that particular report, but that one will be available for commissioners' consideration very soon as well.

There is also a question of whether we might have a hearing on the college admissions project. I know the General Counsel will be speaking to that subject in a few minutes, but
that is another topic that we have to consider if we are going to have a briefing or a hearing on that particular topic.

And, of course, the other major item that will be scheduled is the National Civil Rights Conference.

CHAIRPERSON REYNOLDS: Okay. At a prior meeting Commissioner Yaki asked for an update on that. I sent Commissioner Yaki an e-mail yesterday letting him know that I wasn't ready to discuss it. I apologized.

There is one variable that I need to nail down before I am comfortable going forward with the discussion. But whether that variable is nailed down by the next in-person business meeting or not, you will receive a report at the next in-person business meeting.

STAFF DIRECTOR DANNENFELSER: Mr. Chairman, I guess would there be a consensus, then, amongst commissioners to plan on the age discrimination for the May 14th meeting, that we have a briefing at that time?

CHAIRPERSON REYNOLDS: I am checking my calendar. We have a business meeting scheduled
on that date. Is that correct?

STAFF DIRECTOR DANNENFELSER: Yes.

CHAIRPERSON REYNOLDS: Okay. Yes.

Then I've already afforded that the time.

STAFF DIRECTOR DANNENFELSER: Okay.

So I will start the clock. I will resend the STEM report to commissioners today with the understanding that we are starting the clock on commissioner review of that today and that commissioner comments would be due three weeks from today, which I don't have a calendar in front of me now but that would be the beginning of April. That would be April 2nd, I believe, would be when those comments would be due. And then we would work to get that out to commissioners by April 9th in advance of the meeting on April 16th.

COMMISSIONER GAZIANO: Mr. Staff Director, I didn't even learn until a few days ago that the STEM report had been sent out. Apparently one theory is that it bounced back because it's got a lot of charts because when someone else tried to send it, forward it, to me, it bounced back.

STAFF DIRECTOR DANNENFELSER: Okay.
COMMISSIONER GAZIANO: And so just be aware of that. If things would bounce back, maybe commissioners, like me, like printed copies anyway.

STAFF DIRECTOR DANNENFELSER: Okay.

COMMISSIONER GAZIANO: So, for the record, I always want a printed copy on three-hole. You can save the binders. I've got binders. If that happens, then mail might be best.

STAFF DIRECTOR DANNENFELSER: That has happened in a number of occasions with some of the larger reports that most of the commissioners' servers have not been able to handle. And the special assistants have received them internally, but in a number of cases, that hasn't happened with the commissioners.

We will make that all available by hard copy and dig that out to anyone.

COMMISSIONER YAKI: Can you break it up into separate .pdfs?

STAFF DIRECTOR DANNENFELSER: We can try that.

COMMISSIONER YAKI: Actually, not pdfs
because we can't --

COMMISSIONER GAZIANO: I think it's

the attachments and charts that are very important

in that particular --

COMMISSIONER YAKI: The charts you can

probably do as a .pdf because I think we're --

STAFF DIRECTOR DANNENFELSER: I will

cHECK. I will have to check with our IT people

and see what we can do in that regard.

- UPDATE ON STATUS OF THE 2010 ENFORCEMENT REPORT

AND RELATED HEARING

CHAIRPERSON REYNOLDS: Okay. Next is

the update on the status of the 2010 enforcement

report and related hearings. Mr. General Counsel,

please provide us with an update on the project.

MR. BLACKWOOD: Yes, sir. This is

David Blackwood for the record.

As all the commissioners received on

February 26, we have received additional

information from the Department of Justice. This

information was useful as background information

relating to other intimidation cases and 11(b)
matters but did not address the main focus of the

report.
At this point, in response to that letter, I did contact the Department of Justice again, specifically with regard to the issue of whether they would allow Mr. Coats, Mr. Adams, and other Department of Justice officials to testify.

This was the fifth time I have asked them to address that issue and asked that they give us a response by today. Typically those responses do come in late on Friday. If and when I receive that, I will forward it to the commissioners.

Nonetheless, it is my intention to try to bring matters to a head with regard to the Department of Justice so they clarify this matter so we know well before April 23rd whether the department will participate.

The only other matter outstanding is with regard to the enforcement of the subpoena with regard to Malik Zulu Shabazz. This has been referred to the U.S. Attorney's office in the District of Columbia. And I am dealing with an assistant U.S. attorney with regard to that enforcement. It is not scheduled. It has not been filed yet. But I have no education that we
are having any difficulty with that.

With regard to a small matter, but I want others to be aware of it since our last hearing did get canceled. One of the suggestions was that we put an alternative date in our hearing notice.

The hearing notice has not gone to the Federal Register yet, but it will have an alternative date of May 14th. And that is our next meeting after April 23rd.

I would view that as a placeholder. I don't expect another 100-year storm, but I wanted you people to be aware that that is why there is an alternative date on there.

COMMISSIONER YAKI: You just jinxed it right there, Mr. General Counsel.

MR. BLACKWOOD: Maybe so. Right when the hurricane comes, we're headed to your place.

- UPDATE ON STATUS OF TITLE IX PROJECT

CHAIRPERSON REYNOLDS: Okay. Mr. General Counsel, please provide us with an update on the response to the subpoena sent out for documents pertaining to the Title IX project.

MR. BLACKWOOD: Yes, sir. Fourteen of
the 19 schools have provided the data information that we requested. As I indicated before, we were contacted by numerous schools that requested that we bifurcate the discovery process, specifically that the data information under document request number 7 be separated from the other requests.

We agreed to that in an overwhelming number of cases and actually extended additional time to some schools. But 14 out of the 19 have provided the data. One will provide data today. So that brings us 15 out of 19 have had no difficulty providing the data information that we have requested.

Four schools, however, specifically Johns Hopkins, Georgetown University, Gettysburg College, and Messiah College, have indicated that they are refusing to provide the data. They have objected to providing this information for a variety of reasons, which I will read into the record in just a minute. But I do want to indicate, too, that they have offered what they believe is a viable alternative, which is to provide information in an aggregate form but not on an individualized format.
We have discussed this matter with these schools on several occasions. I've had phone calls with the individual general counsels on the matter and have consulted with Dr. Lerner about the formats and potential information that can be received and whether that was a viable alternative. The short answer is it is not.

As indicated by the 15 schools that have responded, we do not believe that providing the individualized data is in any way a violation of any privilege. We have indicated that we will preserve the confidentiality of the individual identities, but 15 out of 19 schools have no difficulty in providing the information.

Now I will read a short --

CHAIRPERSON REYNOLDS: Mr. General Counsel?

MR. BLACKWOOD: Yes, sir?

CHAIRPERSON REYNOLDS: Let's be clear. We're not asking for personally identifying information from the schools. Is that correct? We don't want names. We don't want birth dates. We don't want Social Security numbers. Is that right?
MR. BLACKWOOD: That is absolutely correct.

CHAIRPERSON REYNOLDS: So when you say that we are looking for individual data, what do you mean by that?

MR. BLACKWOOD: Well, perhaps if Dr. Lerner were on the phone, maybe he could best speak to it. But I can give my layman's understanding of it.

CHAIRPERSON REYNOLDS: Well, let's turn to the doctor if he is available. Dr. Lerner, are you on the line?

STAFF DIRECTOR DANNENFELSER: He was not able to make it, Mr. Chairman. He had some logistical issues that came up, and he was not able to be on the line.

CHAIRPERSON REYNOLDS: Okay. Well, then, Mr. General Counsel, I will have to rely on your layman's view.

MR. BLACKWOOD: When I use the term "individualized data," it is done on a student-by-student basis. As you pointed out, it is not that each student can be identified but that certain characteristics of each student can
be identified.

These are necessary as control factors to focus them on the largest issue of gender disparities at the schools. This is a standard technique. Dr. Lerner has used it in other analyses. He has indicated to me that it is something that is provided as a matter of course in many public schools to the Department of Education. And, as I say, 15 of the 19 schools did not have any difficulty in providing it.

The four schools that I did mention seem to be coordinating their responses. I in a very short way can indicate the following. This is from a letter I received from Georgetown University yesterday, which narrows down some of the broad-brush objections that they made. Many of those objections have now faded to the background as many other schools responded.

This is from Georgetown, who indicated, "The university believes that providing the information in the form requested by the Commission would undermine sensitive and proprietary business practices, interfere with academic decision-making, create confusion about
the manner in which the university makes undergraduate admission decisions, and place the university at a competitive disadvantage."

CHAIRPERSON REYNOLDS: Did they cite any case law to defend their position?

MR. BLACKWOOD: No, they have not. And in our discovery request, part of the procedures or the instructions request, "If you object to things, please on a matter of privilege or otherwise, that you identify any specific cases or case law that you are relying upon."

None of these schools has provided any basis other than basically the summary that I just gave you.

CHAIRPERSON REYNOLDS: So 15 out of the 19 schools managed to provide the information in a manner that doesn't release personally identifying information. They released it in a manner that doesn't disrupt their admission process. But Georgetown, Johns Hopkins, and -- I'm sorry. What are the names of the two other schools?

MR. BLACKWOOD: Gettysburg College and Messiah College.
CHAIRPERSON REYNOLDS: So these four institutions had not been able to figure out how to do this. Have you recommended that these schools consult with the other 15 schools that managed to do this to get some direction?

MR. BLACKWOOD: I didn't have to make that suggestion. They have indicated all along that all of these schools are in contact with each other. And it has been very clear in my communications that they absolutely are aware that the other schools have provided the data.

Especially Georgetown and Johns Hopkins have indicated they simply have a very strong objection to providing the information.

COMMISSIONER HERIOT: Mr. Chairman?

CHAIRPERSON REYNOLDS: Yes?

COMMISSIONER HERIOT: I just want to note that this looks very bad for these schools to be resisting an effort to look into the issue of sex discrimination. I am quite surprised that they are putting up this kind of a fight. I think it may well be that many Americans will be interested in this, but I think that this should be referred to the Department of Justice to
enforce the subpoena reasonably promptly here.

If you believe there is still some room for negotiation, you know, I am willing to defer to that. But I think we need to move reasonably rapidly on this in order to get the data that we need.

CHAIRPERSON REYNOLDS: Commissioner Heriot, I would ask for your indulgence. I would like to have some additional interactions with these four schools to get a better understanding of what their objections are.

If they have a legitimate basis for refusing to provide the information, if they can distinguish themselves from the other 15 institutions that have provided the information, then I think that they deserve to be heard.

But after that, after we have met and discussed this issue, if they don't put something on the table that demonstrates that they have a legal basis for their position, then I fully support your recommendation that refer this to the Department of Justice.

COMMISSIONER HERIOT: I have got a hunch on this that I think I can talk to the
General Counsel about after the meeting, but, you know, my bottom line is we need to be prepared to move very quickly on this in referring this to the Department of Justice.

COMMISSIONER GAZIANO: Mr. Chair?

CHAIRPERSON REYNOLDS: Yes?

COMMISSIONER GAZIANO: I also want the record to reflect my view that this is very sad and doesn't speak very highly of these universities who do want to hide their information on possible discrimination matters.

Particularly there are two matters which particularly are bothersome to me. The first is that they throw in the kitchen sink. And most of their objections are completely frivolous.

With regard to this revealing proprietary information, it's somewhat odd when we're just asking for a list of the applicants and some of their criteria.

But, even if this may reveal in some way to someone some sort of proprietary information, that can't be a defense to a government agency investigating not only discrimination but any other law enforcement
matter. There are many firms, of course, that would rather keep their practices that may be illegal from the public scrutiny.

You know, something again, I would like to think that if the public finds out which universities are doing it, that may be bring additional pressure. And that may help you and the General Counsel convince them to do the right thing so that they don't need to be sued by the U.S. government.

But prior to that, I think it ought to be emphasized that these are shameful excuses that they are raising. If they had some legal reason or if they had some other accommodation, reasonable accommodation, they were requesting, I would be much more favorably disposed to them. But this is really unacceptable.

COMMISSIONER YAKI: Mr. Chair, this is Commissioner Yaki. I just think that before we go uttering potential libelous statements about at least two institutions with which I am very familiar with, Georgetown and Johns Hopkins, who have great reputations for educational excellence and integrity, that I agree with you we should
explore as much as possible the nature of their objections.

Quite frankly, if I were in their shoes, I don't know what I would do other than judging by the statements made by some of the commissioners here today, I would be very worried about what would happen to the data I would provide to this Commission.

CHAIRPERSON REYNOLDS: Well, Commissioner Yaki, I am in agreement with you to the extent that you said that we need to engage with them some more to get a better understanding of the bases of their positions.

I believe we have a consensus. That is the approach we will take.

- UPDATE ON ATTACK AGAINST ASIAN-AMERICAN STUDENTS AT SOUTH PHILADELPHIA HIGH SCHOOL

CHAIRPERSON REYNOLDS: Okay. Next up. At our last two meetings, we discussed and I asked staff to track developments in what appears to have been racial violence directed against Asian American students at South Philadelphia High School by black students. Information related to the incident was included in the meeting binder.
that was sent to the commissioners by the Staff Director on March 4th.

I would also like to note that Vice Chair Thernstrom and a special assistant, Tim Fay, they have a recent piece on this very issue in AEI, the American publication.

Mr. Staff Director, please provide us with an update on staff's efforts to obtain additional information.

STAFF DIRECTOR DANNENFELSER: Thank you, Mr. Chairman.

Pursuant to your request at the February 26th meeting, I sent commissioners a memo on March 4th with the meeting binders summarizing the developments in the South Philadelphia High School matter to date, including a conversation between a member of my staff and the lawyer for the Asian American Legal Defense and Education Fund, known as AALDEF. Her name is Ms. Cecilia Chen.

I also sent commissioners statements by involved students and the executive director of Asian Americans United that we obtained from the AAU website as well as a copy of the report by
U.S. District Court Judge James Giles, former U.S. 
District Court Judge James Giles, whose law firm 
was commissioned to conduct an independent 
investigation to ascertain causative events and 
circumstances surrounding the attacks on Asian 
students last December.

Ms. Chen declined our request for a 
copy of the complaint that AALDEF sent to the 
Department of Justice but said she is willing to 
speak with our commissioners about the incident.

Ms. Chen alleged that the students are 
still being harassed. Local human relations 
commissions are involved at both the state and 
city level to some extent. A local Human 
Relations had voted to open a general 
investigation on December 28, 2009, but on January 
5th, 2010, in a meeting in which the school was 
supposed to address the problem, only third 
parties, students called "ambassadors," not the 
students involved, appeared with school 
representatives, according to Ms. Chen.

She stated that the school claimed 
that the assaulted students could not be allowed 
to miss classes, unlike apparently the ambassador
students, who did miss classes. Ms. Chen viewed this as inadequate.

Ms. Chen felt that the students had never been given a chance to present their accounts of what had happened. She also noted the school had hired an independent investigator, former District Judge James Giles, who conducted what the students called a perfunctory hearing to determine facts.

Ms. Chen also charged that with the exception of hiring temporary guards and installing some security cameras, no changes have been made in the school to address the problems brought to light by the incident.

According to news accounts, the attacks against Asian students at South Philadelphia High School began December 2nd, 2009, when a Vietnamese student was jumped by 14 students across the street from the school.

On December 3rd, 2009, news reports indicate that "large groups of African American and Asian students" attacked 26 Asian students. Victims and witnesses state that attackers roamed the halls of the school searching for victims to
target. The attacks included punching and kicking.

Seven victims were treated at Methodist Hospital for scrapes and bruises.

CHAIRPERSON REYNOLDS: Excuse me. Mr. Staff Director, did you say that black and Asian students attacked another group of Asian students?

STAFF DIRECTOR DANNENFELSER: Yes. That was an allegation, that there were African American and some Asian students involved in the attack on the 26th.

VICE CHAIR THERNSTROM: I believe that the allegation is that there was one Cambodian student, not Asian students, plural.

STAFF DIRECTOR DANNENFELSER: Okay. Thank you for that clarification.

VICE CHAIR THERNSTROM: But, look, the facts, as I repeatedly point out in my article, the facts are not 100 percent clear. It's not clear whether as charged, the black students were roaming the school looking for Asian students, rushing up to the second floor, whether lunchroom personnel were basically egging them on, et cetera, et cetera.
This is a very -- I mean, I gave the facts to the best of my ability by going through a lot of material. And Tim did as well. In fact, Tim did the primary research on what the basic facts were.

This is a very confused story and worth a briefing, by the way.

COMMISSIONER YAKI: This is Commissioner Yaki. I just wanted to second Commissioner Thernstrom's comment that this could require a briefing.

I think this is an issue that is certainly I don't think isolated to South Philadelphia. I think that there are a lot of urban centers where this kind of activity may be occurring.

It is serious. It is something that needs to be addressed in a very proactive way. I think the Commission is one of the ideal, formerly used to be one of the ideal, candidates to try and deal with these types of issues.

I would also just raise, although it is not on the agenda, the allegations or, actually, not allegations, the racial incidents at
UC-San Diego that have been in the news lately regarding the Compton cookout connected by a fraternity during --

COMMISSIONER GAZIANO: I think it was a black comedian who conducted the cookout.

COMMISSIONER YAKI: Well, whatever the fraternity was, it certainly got --

COMMISSIONER GAZIANO: I don't think it was a fraternity.

COMMISSIONER YAKI: Whatever it was.

COMMISSIONER GAZIANO: There was one story, but I think that that has been clarified that it was not a fraternity.

COMMISSIONER YAKI: Well, I think it's something that you and I have different facts about. And it is something that I have described as something that has been a problem on college campuses and is continuing to be to this day.

VICE CHAIR THERNSTROM: And let me say that this Philadelphia incident was a long time in coming. And Commissioner Yaki is perfectly right to say there is nothing unique about it. It is part of a larger picture of disorder and violence in too many inner city schools. And sometimes it
has a racist aspect to it. Sometimes it does not.

And, again, this is no kind of isolated little story here. And it is one of the few topics in which factions in this Commission could get together and work together. And I think there would be a lot of agreement on what the chief concerns would be.

CHAIRPERSON REYNOLDS: What factions?

VICE CHAIR THERNSTROM: What factions?

CHAIRPERSON REYNOLDS: Think of this as an attempt at humor.

VICE CHAIR THERNSTROM: Right.

CHAIRPERSON REYNOLDS: Vice Chair Thernstrom, I agree with you. And I think that, if you wouldn't mind, you are working with, for example, Commissioner Kirsanow and involve other commissioners. Let's have a discussion and see if we can come up with a game plan to address this issue.

VICE CHAIR THERNSTROM: Okay. I would actually like to make a motion, Mr. Chairman, that we schedule a briefing when we can manage to fit it in.

COMMISSIONER YAKI: It would probably
be a briefing.

VICE CHAIR THERNSTROM: Do you want to try a concept paper first? Yes.

COMMISSIONER YAKI: This is Commissioner Yaki.

CHAIRPERSON REYNOLDS: I think that we need to do a little more leg work before we vote.

VICE CHAIR THERNSTROM: That's fine.

COMMISSIONER YAKI: I would also suggest that if we were going to do something, given the nature of the individuals involved, that this is more appropriate for a site hearing than a briefing in D.C.

VICE CHAIR THERNSTROM: It is appropriate for a site hearing, actually. There's very strong sentiment on the part of a lot of Asian students that they have not been properly heard.

COMMISSIONER YAKI: Especially if you want the students, then I think, then, going there would make it a lot easier than --

VICE CHAIR THERNSTROM: Right. And there is very strong sentiment that the Giles report really is totally inadequate in reviewing
this story.

CHAIRPERSON REYNOLDS: I think these are good ideas. And we just need to get this stuff poured into a concept paper so that we can review it and have a vote.

VICE CHAIR THERNSTROM: That is fine.

COMMISSIONER GAZIANO: I don't know that I necessarily want to have a vote of this in isolation, as opposed to some other ideas. There was one concept paper that related to this that got a lot of support.

I also am hearing from the Vice Chair that some of the facts as reported aren't true.

VICE CHAIR THERNSTROM: No. They are just in dispute. Basic facts here are in dispute.

COMMISSIONER GAZIANO: Yes.

VICE CHAIR THERNSTROM: For instance, did the principal of the school walk the Asian students out of the school in order to protect them when there was a group, a large group, of black students seemingly in wait for those students? And did she turn around very quickly and basically deliver those Asian students to the black students who were waiting for them or did
she lose control of the situation because the
Asian students got frightened and started to run,
at which point -- and they weren't able to escape
those who were waiting to attack them.

You know, there are very basic
questions about the conduct of the authorities
within the school here that are worth exploring.

COMMISSIONER GAZIANO: I understand.
And maybe I'll think that a site visit and a
hearing specifically on this -- there seem to be
two suggestions.

One is that we ought to do something
on the larger issue, in which case I am not sure a
site visit is necessary. Whether it is important
enough that we look into this particular incident
would depend, in part, in my mind as to how the
authorities have responded.

Our primary responsibility is not to
investigate the facts of a particular incident
unless there is some law enforcement or other
problem involved that merits it.

So I'm not opposed to it, but my other
suggestion is I don't know that we necessarily
should vote on the next briefing in isolation of
other issues that other commissioners have proposed. But I suppose we can take that up --

CHAIRPERSON REYNOLDS: Let's get to first base as the initial step. The Vice Chair will work in consultation with the Staff Director to put together a concept paper. And we'll take a look at it. And then we will go from there.

IV. MANAGEMENT AND OPERATIONS

CHAIRPERSON REYNOLDS: Next up the General Counsel has prepared a written opinion on the terms of office of the current commissioners in light of United State versus Wilson. And this opinion was included in the meeting binders that were sent to the commissioners.

In Wilson, the court examined the method by which such appointments should be calculated, focusing on the relevant provision of the agency's enabling legislation.

Mr. General Counsel, would you please discuss your findings and the consequences of your findings?

- OFFICE OF GENERAL COUNSEL PRESENTATION REGARDING COMMISSIONER TERMS

MR. BLACKWOOD: Again, this is David
Blackwood for the record.

I have circulated previously, about six weeks ago and then before that, a memo dated June 25, 2007, which I think is nothing more than a factual description of the decision in United States versus Wilson. There were two opposing ways to calculate the commissioners' terms. And the court came down and clarified the issue that the way the White House had been designating commissioners' terms was accurate.

This causes a bit of confusion here, however, because Congress, even after the decision, even after cert was denied, continued to name commissioners' terms that were directly contrary to Wilson.

We are bound by the decision. I wanted to bring this to the attention of commissioners again so that there is time to take corrective action.

In this case, on December 5th, the terms of Commissioners Reynolds and Taylor end. They were both presidential appointments. I don't see any difficulty there. The White House under all sorts of administrations has taken a
consistent view of how these appointments should be measured.

The two congressional appointments, Commissioner Yaki and Commissioner Melendez, do need to be acted on prior to in Commissioner Yaki's case December 15th and Commissioner Melendez December 12th.

I just wanted to bring that to everybody's attention so that action is taken before. There will probably be some resistance by Congress along the lines of, "Well, we really don't care what Wilson said." And I say that specifically because, for example, in Commissioner Yaki's case, in 2005, three years after Wilson, they put a term description on his term that it wouldn't end until May 3rd, 2011, which is directly contrary to the way you should calculate the terms in Wilson.

So I will say that the Commission is going to be taking a position that Wilson controls. And I urge the other commissioners to take action.

COMMISSIONER YAKI: This is Commissioner Yaki. I just wanted to state
regarding that, my appointment, at the time, we were actually told that my term expired May 3rd, 2005 by the Commission.

The Commission formally sent a letter to the Speaker saying that -- because I remember I had been appointed on February 15th. And then they said, "Well, your term actually is up May 3rd, 2005." And so the Commission actually sent a letter to the Speaker, which generated the reappointment of me on May 3rd.

So if we are going to be consistent, we at least ought to own up to the fact that we were inconsistent beforehand. I think there will be no problem, but we should note that this was not a congressional issue. This was in direct response to a letter sent by Ken Marcus to the Speaker stating that my appointment was ending on May 3rd, 2005.

MR. BLACKWOOD: It is actually 2011.

COMMISSIONER YAKI: Whatever. But no. That is why they had to reappoint me on May 3rd, 2005, because they said that Chris Edley was expiring in May 3rd, 2005.

MR. BLACKWOOD: All I can say is since
2007, the Commission has taken a consistent point of view.

I have nothing further.

CHAIRPERSON REYNOLDS: Okay. Thank you.

Mr. Staff Director, please provide your report.

STAFF DIRECTOR DANNENFELSER: Thank you, Mr. Chairman.

V. STAFF DIRECTOR'S REPORT

STAFF DIRECTOR DANNENFELSER: A copy of the report was included in the binders. And there were some details about a number of activities that have been taking place in the Public Affairs Unit. And commissioners have been receiving frequent updates on news reports about the Commission.

Also, there is a reference to the Office of Civil Rights Evaluation and the complaints processing, that during this particular period noted, that OCRE received 74 written complaints, one walk-in complaint, 11 e-mail complaints, 2 faxed complaints, and 161 telephone complaints, of which 63 were repeat calls. In
total, staff received and processed 249 complaints during the reporting period.

We have received a recent mock-up from National Technical Information Service regarding the clearinghouse project. And the review from the Office of the Staff Director is that it looks good. There are a few very minor technical changes that we think need to be made. And we will be communicating those very soon.

We had a meeting scheduled for this afternoon with the EEOC to discuss their response to us pertaining to our request. But we are presently rescheduling that meeting. We hope to get that rescheduled soon.

Regarding library statistics, the library staff received 97 telephone inquiries. They completed 65 simple reference requests, performed 33 research projects of various sizes, and an additional 84 research services. There were 201 written requests and 193 e-mail requests for publications. And 376 publications were mailed, and 41 different publications were requested.

Getting Uncle Sam to Enforce Your
Civil Rights and A Compilation with Civil Rights Laws continue to be the most requested publications. And there are currently 50 requests for publications in process.

Staff has sent the F.Y. 2012 budget call to office heads. And they are presently in the process of putting together their proposed 2012 budgets.

We have also forwarded the 2011 congressional appropriations request to the House and Senate Appropriations and Judiciary Committees. We also recently sent a report that had been requested by the Appropriations Committees pertaining to the status of the SAC charters and the activities of the SACs.

And that is my report at this time, Mr. Chairman.

CHAIRPERSON REYNOLDS: Any questions?

(No response.)

CHAIRPERSON REYNOLDS: Okay. Hearing none, the meeting is adjourned. Thank you, folks.

(Whereupon, the foregoing matter was concluded at 11:45 a.m.)