U.S. COMMISSION ON CIVIL RIGHTS

MEETING

FRIDAY, APRIL 16, 2010

The Commission convened in Room 540 at 624 Ninth Street, Northwest, Washington, D.C. at 9:30 a.m., Gerald A. Reynolds, Chairperson, presiding.

PRESENT:

GERALD A. REYNOLDS, Chairperson
(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)
ASHLEY L. TAYLOR, JR., Commissioner
MICHAEL YAKI, Commissioner

MARTIN DANNENFELSER, Staff Director
STAFF PRESENT:
DAVID BLACKWOOD, General Counsel, OGC
TERESA BROOKS
MARGARET BUTLER
CHRISTOPHER BYRNES, Director, RPCU
DEBRA CARR
IVY DAVIS
DEMITRIA DEAS
PAMELA A. DUNSTON, Chief, ASCD
LATRICE FOSHEE
TINALOUISE MARTIN, Director, OM
PETER MINARIK
EMMA MONROIG, Solicitor
LENORE OSTROWSKY
JOHN RATCLIFFE, Chief, Budget and Finance
KIMBERLY TOLHURST
AUDREY WRIGHT

COMMISSIONER ASSISTANTS PRESENT:
NICHOLAS COLTEN
ALEC DEULL
TIM FAY
DOMINIQUE LUDVIGSON
JOHN MARTIN
ALISON SCHMAUCH
KIMBERLY SCHULD
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CHAIRPERSON REYNOLDS: Okay. Let's get started. Good morning. This is Chairman Reynolds. The meeting will come to the order. This is a meeting of the U.S. Commission on Civil Rights. It is 9:34 a.m. Eastern Standard Time on April 16, 2010.

Commissioner Kirsanow, Commissioner Melendez, and I are participating by phone. The rest of the Commissioners are present at 624 9 Street, N.W., Room 540, Washington, D.C., where the meeting is being held.

Before we start discussion of the agenda, I'd like to note the passing this week of Dr. Benjamin Hooks. Dr. Hooks had a distinguished and varied career as a judge, businessman, lawyer, and minister. He was a man of many firsts. He was among the first black lawyers in Tennessee practicing until he joined the ministry in 1956, and, thereafter, becoming the first black state trial judge in Tennessee since reconstruction.

Later, he also became the first black appointee to the Federal Communication Commission. Dr. Hooks was a World War II veteran, as well as a veteran of the Civil Rights Movement, and a member of
Dr. King's Southern Christian Leadership Conference.
He pioneered the NAACP-sponsored restaurant sit-ins,
and other boycotts of consumer items and services. He
was a member of the Tennessee Human Rights Commission,
and the State Discrimination Watchdog Agency.

He is, perhaps, best known for his work as
a former Executive Director of NAACP. Under his more
than 15-year leadership, he revitalized the
organization. He was a tireless advocate for the
advancement of blacks, and argued that family unity
was an essential component of their ability to partake
in the American dream. He was the recipient of many
awards honoring his civil rights contributions, and in
2007 was awarded the Presidential Medal of Freedom by
President Bush, the nation's highest civilian honor.
We express our gratitude for his tireless
contributions to civil rights, and offer our
sympathies to his family, who can rest assured that
Dr. Hooks' legacy will live on.

I would also like to note that this month
marks the 42nd anniversary of the passage of the Fair
Housing Act, a landmark piece of legislation signed
into law on April 11, 1968. That law prohibits
discrimination in the sale, rental, and financing of
housing based on race, color, national origin, and
Now, the first item on the agenda is the Approval of the Agenda.

I. APPROVAL OF AGENDA

CHAIRPERSON REYNOLDS: Is there -- well, I move that we approve it. Is there a second?

COMMISSIONER GAZIANO: Second.

CHAIRPERSON REYNOLDS: Okay. I would propose a substitute motion. I'd like to make four amendments to the agenda. The first is to move consideration of the State Advisory Committees up on the agenda to occur before Program Planning. The second would be to table consideration of the South Carolina State Advisory Committee to a subsequent meeting. Third, I'd like to include an item under Program Planning to appear after consideration of the Concept Paper on the South Philadelphia High School violence, to approve the proposed calendar year for 2011, basically, meeting schedule. And, finally, I'd like to defer discussion of the SEC's response to our document request regarding their Corporate Diversity Disclosure Rule to a subsequent meeting. Do I have a second?

COMMISSIONER KIRSANOW: Kirsanow, second.

COMMISSIONER GAZIANO: If you wouldn't
mind, could you just repeat where the State Advisory Committees are going to go, again?

CHIEFPERSON REYNOLDS: It would occur right after Approval of the Agenda.

COMMISSIONER GAZIANO: Okay.

VICE CHAIR THERNSTROM: Mr. Chairman, I have to leave today at around 11:30, so if you put all those SACS up front, it means that I will not be here for the bulk of the business that I would think would be more important, but it's up to you, obviously.

CHIEFPERSON REYNOLDS: Okay. I tried to -- I've taken into account the fact that Commissioners have to leave early sometimes. I try to put things that require a vote up front. I hope that the -- I'm fairly confident that we can get through the SACs expeditiously, if everyone behaves themselves.

COMMISSIONER YAKI: Mr. Chair, in that case, I would say that you should table the Colorado SAC until another time.

CHIEFPERSON REYNOLDS: Okay. I accept that as a friendly amendment.

COMMISSIONER YAKI: Right.

CHIEFPERSON REYNOLDS: Okay. All in favor? Well, Commissioner Melendez, how do you vote?

COMMISSIONER MELENDEZ: Yes.
COMMISSIONER GAZIANO: Commissioner Gaziano.

COMMISSIONER GAZIANO: Yes.

CHAIRPERSON REYNOLDS: Commissioner Heriot.

COMMISSIONER HERIOT: Yes.

CHAIRPERSON REYNOLDS: Commissioner Kirsanow. No, Commissioner Yaki.

COMMISSIONER YAKI: Aye.

CHAIRPERSON REYNOLDS: Vice Chair Thernstrom.

VICE CHAIR THERNSTROM: Yes.

CHAIRPERSON REYNOLDS: Okay. It's unanimous.

COMMISSIONER TAYLOR: I'm here, Gerry.

CHAIRPERSON REYNOLDS: Oh.

COMMISSIONER TAYLOR: Is my mic off?

CHAIRPERSON REYNOLDS: Okay. Thank you for bringing yourself to my attention. Commissioner Taylor, how do you vote?

COMMISSIONER TAYLOR: Aye.

CHAIRPERSON REYNOLDS: Okay. It's unanimous. So, we will jump to the New Jersey State Advisory Committee.

III. STATE ADVISORY COMMITTEE ISSUES
CHAIRPERSON REYNOLDS: I move that the Commission recharter the New Jersey State Advisory Committee. Under this motion, the Commission appoints the following individuals to that Committee based on recommendations of the Staff Director, Leanna Brown, Richard Collier, Jr., Jane Durham, Sherine El-Abd, Lora Fong, Brian Gaffney, John Hart, Shavar Jeffries, Beth Jones, Lawrence Lustberg, Clement Price, Saulo Santiago, Judd Serotta, Morris Smith, William Stepney, Frank Tinari, Jackson Toby, and Peter Woods.

Pursuant to this motion, the Commission appoints William Stepney as Chair. The 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 TAYLOR: Second.

CHAIRPERSON REYNOLDS: Discussion?

COMMISSIONER YAKI: This is Commissioner Yaki. I have a question for the Executive Director, the Staff Director.

Is it my understanding that everyone on the New Jersey SAC reapplied to be on the SAC?

STAFF DIRECTOR DANNENFELSER: I believe that's the case. There was -- let me look at my note
here a second. There was one from the last time who
resigned after she had been appointed, and then she
subsequently got appointed to the Pennsylvania SAC.
And I believe all the remaining members -- there was
one other. There was one person who decided not to
come back.

COMMISSIONER YAKI: So, there were two
vacancies?

STAFF DIRECTOR DANNENFELSER: Well, the
limit is 19.

COMMISSIONER YAKI: How many of them are
there right now?

STAFF DIRECTOR DANNENFELSER: In this
package, there are 18.

COMMISSIONER YAKI: Well, the reason I
ask, Mr. Chair, is that, as you know, I pretty much
have made it a practice for the last few years not to
recommend anyone for SACs, because I have
philosophical problems with the way they've been
appointed. One person, however, did contact me asking
-- expressing her interest in this, and I passed that
on to the Staff Director to contact that person, and
that person did, indeed, apply. This is someone who
has been a senior media executive at MTV, and
Showtime, who's an Adjunct Professor at the Annenberg
School, who has been a leader in diversity, and other sorts of programs in the media. She is someone who is openly gay, and who has been a leader in gay and lesbian issues, including with regard to issues such as marriage and adoption in the State of New Jersey. She's been involved in the New Jersey Civil Rights community, and I just found it very odd that someone with her credentials, her very strong credentials was unable to make it onto this body. And if there is, indeed, one vacancy available, I would ask that she be included in this community, because she's someone who on her own volition wanted to be involved in the New Jersey State Advisory Committee, and I think that's the kind of person who we would like to see as part of what it is that we do.

CHAIRPERSON REYNOLDS: I guess two questions come to mind. So, she's your recommendation. Marty, will this individual upset the balance as we defined it?

STAFF DIRECTOR DANNENFELSER: It would move the Committee a little bit to the left, overall, with its overall balance right now.

VICE CHAIR THERNSTROM: Mr. Chairman, there are a lot of committees that are imbalanced, SAC Committees that are imbalanced one way or another.
do not think that should be a fatal objection.

CHAIRPERSON REYNOLDS: Well, we're trying
to fix the imbalance, and -

VICE CHAIR THERNSTROM: Well, we can't
always get perfect balance. I mean, if one person is
going to throw the whole balance off in a fatal way,
we're doing something wrong here.

CHAIRPERSON REYNOLDS: No, I mean -- I'm
not suggesting that it's possible to achieve perfect
people, and I'm not sure that I want to. In any
event, any other comments from other Commissioners?

COMMISSIONER MELENDEZ: Commissioner
Melendez. The gender balance, there's very few women,
as compared to men. Is that right, Staff Director?

STAFF DIRECTOR DANNENFELSER: I'd have to
check the number here, if you'd give me a minute,
Commissioner Melendez. I believe there are five women
on this package.

COMMISSIONER YAKI: Five out of how many?

STAFF DIRECTOR DANNENFELSER: Eighteen.

VICE CHAIR THERNSTROM: Eighteen. So,
there's already an imbalance of one sort of another.

COMMISSIONER YAKI: I would like to amend
the New Jersey SAC to nominate Joan Garry, the person
who I am referring to, to add her membership to the
New Jersey SAC.

COMMISSIONER GAZIANO: If that is going to be considered, I'd like to postpone the SAC so that I have a chance to review the applicant. I'm not, necessarily, against it, although, I think this is a somewhat liberally leaning SAC from my analysis to begin with, but that wouldn't be the main reason. If we're going to add people at meetings, you've got to give other Commissioners a chance to review it.

COMMISSIONER HERIOT: Mr. Chairman, we are required by law to charter 51 SACS every two years. We've just deferred two out of the four that we are supposed to be doing here. If we are to keep up with this, and we haven't been, we should be chartering two SACs at every meeting. And I don't see much point here in delaying the approval of this SAC. If Commissioner Yaki wants to propose the name as an addition at the next meeting -

(Simultaneous speaking.)

COMMISSIONER HERIOT: Can I finish?

CHAIRPERSON REYNOLDS: Is that right, Marty?

STAFF DIRECTOR DANNENFELSER: I'm sorry, Mr. Chairman. I couldn't hear you.

CHAIRPERSON REYNOLDS: Am I correct in
assuming that she submitted her application?

STAFF DIRECTOR DANNENFELSER: Yes, she did.

COMMISSIONER HERIOT: But I haven't seen it.

CHAIRPERSON REYNOLDS: No, I understand that.

COMMISSIONER YAKI: Mr. Chair, I -

CHAIRPERSON REYNOLDS: I propose that we vote on the New Jersey SAC as it's currently configured with the understanding that after the information regarding this individual that Commissioner Yaki has sponsored, that we vote on this individual. And I will say now that unless there's something outrageous about this candidate, I will be supporting her.

COMMISSIONER GAZIANO: What is the -- may I ask, Mr. Chair, Staff Director, what is the maximum number, I've forgotten, that we can have on a SAC?

STAFF DIRECTOR DANNENFELSER: Nineteen.

COMMISSIONER GAZIANO: So, we cannot add this person and do any other balancing. I just want to --

COMMISSIONER YAKI: I always thought you were against balancing.
COMMISSIONER GAZIANO: No, we want ideological diversity, and ideological balance.

COMMISSIONER YAKI: Sounds to me like you're playing with numbers. I just thought that was something that you believed in.

COMMISSIONER GAZIANO: I'm not sure where you get that.

COMMISSIONER YAKI: Perhaps, your right. Okay. Why don't we just do that. Mr. Chair -

CHAIRPERSON REYNOLDS: I'm sorry?

COMMISSIONER YAKI: Let just do what you said.

CHAIRPERSON REYNOLDS: Okay. Commissioner Melendez, how do you vote?

COMMISSIONER MELENDEZ: Yes.

CHAIRPERSON REYNOLDS: Commissioner Gaziano.

COMMISSIONER GAZIANO: Yes.

CHAIRPERSON REYNOLDS: Commissioner Heriot.

COMMISSIONER HERIOT: Yes.

CHAIRPERSON REYNOLDS: Commissioner Kirsanow.

COMMISSIONER KIRSANOW: Yes.
CHAIRPERSON REYNOLDS: Commissioner Yaki.

COMMISSIONER YAKI: Abstain.

CHAIRPERSON REYNOLDS: Vice Chair Thernstrom.

VICE CHAIR THERNSTROM: Yes.

CHAIRPERSON REYNOLDS: I didn't forget about you, Commissioner Taylor.

COMMISSIONER TAYLOR: Yes.

CHAIRPERSON REYNOLDS: Okay. We have on abstention.

VICE CHAIR THERNSTROM: And may I request that the information about this candidate is sent out expeditiously, so that nobody can say we haven't had time to look at the application properly.

COMMISSIONER YAKI: I have the application here. I'll give it to the Staff Director.

STAFF DIRECTOR DANNENFELSER: I have extra copies that I'll get around to people right now.

COMMISSIONER YAKI: Let's move on.

CHAIRPERSON REYNOLDS: Okay. I move that the Commission recharter Washington State Advisory Committee. Under this motion, the Commission appoints the following individuals to that Committee based on the recommendation of the Staff Director, Luther Adams, Joseph Backholm, Tony Benegas, Robin Boehler,
Duane French, Dan Goldaber, Paul Guppy, Julie Nelson, Camille Pauley, Maria Rodriguez Salazar, Eileen Sobjack, Rita Zawaideh. Under this motion, the Commission appoints Paul Guppy as Chair of the rechartered Washington State Advisory Committee. These meetings will serve as uncompensated government employees. Under this motion, the Commission authorizes the Staff Director to execute the appropriate paperwork for this appointment.

Is there a second?

COMMISSIONER TAYLOR: Second.

CHAIRPERSON REYNOLDS: Discussion?

Commissioner Melendez, how do you vote?

COMMISSIONER MELENDEZ: I'll abstain.

CHAIRPERSON REYNOLDS: Commissioner Gaziano.

COMMISSIONER GAZIANO: Pass.

CHAIRPERSON REYNOLDS: Commissioner Heriot.

COMMISSIONER HERIOT: Yes.

CHAIRPERSON REYNOLDS: Commissioner Kirsanow.

COMMISSIONER KIRSANOW: Abstain.

CHAIRPERSON REYNOLDS: Commissioner Yaki.

COMMISSIONER YAKI: No.
CHAIRPERSON REYNOLDS: Vice Chair Thernstrom.

VICE CHAIR THERNSTROM: Abstain.

CHAIRPERSON REYNOLDS: Commissioner Taylor.

COMMISSIONER TAYLOR: Aye.

CHAIRPERSON REYNOLDS: And I vote for it also. We have -

COMMISSIONER GAZIANO: I'll add, I just passed. Now I will vote. Aye.

CHAIRPERSON REYNOLDS: Okay. I'm sorry. I thought you voted for it. Okay. We have three abstentions. Commissioner Yaki voted against this plate. The motion passes.

II. PROGRAM PLANNING

CHAIRPERSON REYNOLDS: Okay. I move that the Commission approve for publication Part A of the report produced by Staff, and reflecting Commissioner and panelist's input on the briefing the Commission held on November 9, 2007 on Discrimination Against Native Americans in Border Towns. Part A, as distributed in draft to the Commission contains a briefing overview, a summary of the issue, and why the Commission chose to conduct this briefing, a summary of the proceedings consisting of a synopses of
panelist's oral statements during the briefing, and a
synopsis of the Question and Answer sessions, and
copies of the panelist's written statements. Under
the motion, if the majority of the Commission votes to
adopt Part A of the briefing report, the Commission
will then open discussion on Part B. If Part A fails
to obtain a majority, discussion of Part B becomes
moot.

This bifurcated vote is taken pursuant to
the policy that the Commission adopted on April 13
of 2007. Is there a second? Is there a second?

COMMISSIONER YAKI: I'll second it.

CHAIRPERSON REYNOLDS: Discussion?

Commissioner Melendez, how do you vote?

COMMISSIONER YAKI: This is Part A.

Right?

CHAIRPERSON REYNOLDS: Yes.

COMMISSIONER MELENDEZ: I vote yes on Part
A.

CHAIRPERSON REYNOLDS: Commissioner
Gaziano.

COMMISSIONER GAZIANO: No.

CHAIRPERSON REYNOLDS: Commissioner
Heriot.

COMMISSIONER HERIOT: Pass.
CHAIRPERSON REYNOLDS: Commissioner Kirsanow.
COMMISSIONER KIRSANOW: Yes.
CHAIRPERSON REYNOLDS: Commissioner Yaki.
COMMISSIONER YAKI: Yes.
CHAIRPERSON REYNOLDS: Vice Chair Thernstrom.
VICE CHAIR THERNSTROM: Yes.
CHAIRPERSON REYNOLDS: Commissioner Taylor.
COMMISSIONER TAYLOR: Yes.
CHAIRPERSON REYNOLDS: And I vote for it, also, so we go back to Commissioner Heriot.
COMMISSIONER HERIOT: Abstain.
CHAIRPERSON REYNOLDS: Okay. The motion passes.

Next up is Part B. I want to save some time. Through conversations, I don't believe that there is sufficient support for Part B. I'd like to see whether my guess is correct, by just opening this up for discussion. Okay.

COMMISSIONER MELENDEZ: This is Commissioner Melendez. Are there some areas of the recommendations that were troubling?
CHAIRPERSON REYNOLDS: That information I
was not able to glean. But, in any event, we will do this the hard way. I will read each finding, and each recommendation, and we will vote each one up or down.

COMMISSIONER YAKI: Mr. Chair -

COMMISSIONER HERIOT: Nobody's made a motion.

COMMISSIONER YAKI: Mr. Chair, this is Commissioner Yaki. Since there are no amendments to the actual language that have been circulated from what has appeared in our binders, I would suggest that we -- in the interest of time, we can waive the reading, and simply vote on each finding as it goes through.

(Simultaneous speaking.)

VICE CHAIR THERNSTROM: Two people talking at the same time does not work, and you and Gail have both consistently interrupted the Chair. I would like to hear the Chair out each time, if he wants to speak.

COMMISSIONER GAZIANO: And I have a point of order which is a priority to be recognized. And I resent the false characterization, Ms. Vice Chair. Let us establish -- Mr. Chair -

CHAIRPERSON REYNOLDS: Allow me to defend myself. Commissioners, I guess they would be Heriot and Gaziano, do you have concern about what I just
recommended?

COMMISSIONER GAZIANO: Let me speak just first to the procedural matter. I think it is silly that we could not at least consider the motion that Commissioner Yaki offered. But when it has been offered before, we had been told that our AIs do not permit such, obviously, appropriate waiving of individual reading, that we must consider each individually. And I've always though, of course, that this Commission can waive AIs, or take exceptions to AIs. But I just want to establish on the record whether the Commission feels it has the authority to even consider such an outrageous motion, as has been characterized in the past, that we would ever consider findings as officially read, when we don't actually read them into the record. You know, if there is support for that, let's establish this for all time.

COMMISSIONER YAKI: Mr. Chair, this is Commissioner Yaki. I mean, my view is that it would be -- there would have been no objection to it. If there was -- I believe that if there is objection, and people want something read, it goes under unanimous consent rule. But it is my sense, somehow, that we could have unanimously dispensed with it. But if the AIs prevent that, Mr. Chair, then the AIs prevent is.
I was just trying to save us some time.

CHAIRPERSON REYNOLDS: Folks, I understand the urge to engage in old payback, but let's move beyond that.

COMMISSIONER GAZIANO: No, it's not -- Mr. Chair, it's not Payback. I'd actually like to --

(Simultaneous speaking.)

VICE CHAIR THERNSTROM: Once again, you've interrupted him. Can I hear him?

CHAIRPERSON REYNOLDS: A discussion of what's required in order to deviate from our AIs. We can have a discussion on that point, but let's have it -- let's make that a separate point, if you don't mind.

COMMISSIONER GAZIANO: Mr. Chair, it is not payback. I'd actually like to establish the principle that Commissioner Yaki seems to be backing down from. I would be happy to establish -- I'm not sure that I -- I don't think I do agree with him, that if the AIs speak to this, it has to be unanimous. I disagree with that position. I'm just saying it's necessary to raise the point so that we're not somehow just making an exception to this particular briefing report, and that won't apply in the future.

CHAIRPERSON REYNOLDS: Commissioner
Gaziano, let me apologize. You are right. I should not have characterized your position as payback. It is legitimate. And I also agree with you that I don't --well, I don't believe that unanimous consent is required to deviate from an AI. I'm just suggesting that if we want to have this conversation about our procedures, I would prefer to have it at a later date. And I'd like to just address the issue that's before us on the merits, if we can.

COMMISSIONER GAZIANO: Okay. That's acceptable to me, too, but -

(Simultaneous speaking.)

CHAIRPERSON REYNOLDS: -- our procedures to another day, if someone feels strongly enough to raise it again. I'll take that as a yes.

Okay. Discussion?

COMMISSIONER HERIOT: Discussion of what?

What's the motion?

COMMISSIONER GAZIANO: Discussion of what? We don't know what the -- whether the motion -

CHAIRPERSON REYNOLDS: I'm sorry. Okay. I treated Commissioner Yaki's statement as a motion. I seconded the motion, and I'm just -

COMMISSIONER HERIOT: What is the motion?

CHAIRPERSON REYNOLDS: To treat -- to
waive the requirement that we read each finding and recommendation into the record.

COMMISSIONER HERIOT: There is no motion yet to adopt anything here.

COMMISSIONER GAZIANO: By the way, I thought that's what we were deferring. We were deferring whether that type of a motion is possible. How about I make a different motion, so that we can still have the discussion. I move that because the — well, I move that we don't adopt findings and recommendations, and Commissioner statements for this report. We publish it as we have some others on the internet, or website, or some other means that I don't -- the reason for my motion is -- and the reason for voting against Part A, is while the testimony was somewhat interesting, I couldn't make heads or tails of it. It didn't seem to really present views that we could really make findings and recommendations on, or statements.

I'm always interested in Native American issues, and would be equally open to further concrete investigations in this area. I just don't think reading it over that it's worthy of publication statements, and supports findings and recommendations. So, that's my reasoning for moving to suspend with
approval of findings and recommendations.

COMMISSIONER HERIOT: And statements?

COMMISSIONER GAZIANO: And statements.

CHAIRPERSON REYNOLDS: Is there a second?

COMMISSIONER HERIOT: Second.

CHAIRPERSON REYNOLDS: Discussion?

COMMISSIONER MELENDEZ: Yes. This is Commissioner Melendez here. You know, we have the issue on all these briefings that they don't really do us any good. We're kind of wasting our time, I think, if we -- and if the findings and recommendations were controversial, I think then we could probably waive those, but I don't think -- in my opinion, they're kind of broad, anyway. They're not really issues where we would get in a debate on -- I don't think there's a real problem in having these recommendations. In fact, they could probably be more in-depth, so I just don't see why we would include these findings and recommendations. Otherwise, it just becomes a useless effort, in my opinion.

CHAIRPERSON REYNOLDS: Comments?

VICE CHAIR THERNSTROM: Well, there is a general problem, it seems to me, with the findings and recommendations, and it extends beyond that. I mean, useless is a good word. Yes, they're useless, whether
we vote on them or not on them. And, especially useless when they come years after the briefing. I mean, this whole process has become laughable.

CHAIRPERSON REYNOLDS: Any other comments?

COMMISSIONER YAKI: Yes, this is Commissioner Yaki. I mean, I just -- my position on briefing reports I think is pretty well known; and that is, I never thought they were vehicles for extended policy recommendations given the very limited nature, scope, and number of witnesses and record that are usually part of any briefing report. So, to that extent, I, actually, support Commissioner Gaziano, but only to the extent that it is a rule, rather than the exception. To the extent that he does it as an exception rather than a rule, I vehemently oppose it, because then we're simply picking and choosing based on someone's ideological affinity to take an issue they decide is something that, based on a thin record, that they can then go further with, I think is inappropriate, and I think undermines the credibility of the Commission. So, as for this report, and every other briefing report, I believe that findings and recommendations should not be part of it, and let's move on.

CHAIRPERSON REYNOLDS: Commissioner
1  Melendez, how do you vote?

    COMMISSIONER MELENDEZ: I'll abstain.

    COMMISSIONER TAYLOR: It's your motion.

    COMMISSIONER GAZIANO: It's my motion to forego Part B and Commissioner statements with this report.

    COMMISSIONER TAYLOR: Right.

    COMMISSIONER HERIOT: Am I being asked to vote?

    CHAIRPERSON REYNOLDS: Commissioner Gaziano.

    COMMISSIONER GAZIANO: Yes.

    CHAIRPERSON REYNOLDS: Commissioner Heriot.

    COMMISSIONER HERIOT: Yes.

    CHAIRPERSON REYNOLDS: Commissioner Kirsanow.

    COMMISSIONER KIRSANOW: Abstain.

    CHAIRPERSON REYNOLDS: Commissioner Yaki.

    COMMISSIONER YAKI: Abstain.

    CHAIRPERSON REYNOLDS: I'm sorry?

    COMMISSIONER YAKI: Abstain.

    CHAIRPERSON REYNOLDS: Vice Chair Ternstrom.

    VICE CHAIR THERNSTROM: Abstain.
CHAIRPERSON REYNOLDS: Commissioner Taylor.

COMMISSIONER TAYLOR: I abstain.

CHAIRPERSON REYNOLDS: All right. I think I will abstain, also. Okay. The motion passes.

COMMISSIONER GAZIANO: What was the vote, 2-0?

CHAIRPERSON REYNOLDS: Yes, 2-0.

COMMISSIONER GAZIANO: Okay.

CHAIRPERSON REYNOLDS: Okay. HBCU.

VICE CHAIR THERNSTROM: Maybe we can find something else to all abstain on.

CHAIRPERSON REYNOLDS: I'm sorry?

VICE CHAIR THERNSTROM: Maybe we can find something else for most of us to abstain on.

CHAIRPERSON REYNOLDS: Next up is the Approval of the Commission's Findings and Recommendations for the Briefing Report on the Educational Effectiveness of Historically Black Colleges and Universities. The Commission will vote individually on each finding and recommendation. Those findings and recommendations receiving a majority vote will be included in the report, with a vote tally and a sentence explaining any opposition vote for that item. A substitute version of the
findings and recommendations emailed to all Commissioners yesterday.

Okay. I move that the Commission approve Finding One, which is a Historically Black College or University is a college or university that existed before 1964, that has a historic, and a contemporary mission of educating African Americans while being open to all students. There are currently 103 HBCUs in the United States, 40 public four-year colleges and universities, 49 are private, the remaining 14 are two-year colleges, 11 of which are public and private). Is there a second?

COMMISSIONER HERIOT: Second.

CHAIRPERSON REYNOLDS: Discussion?

COMMISSIONER YAKI: This is Commissioner Yaki. I got these late yesterday in transit. I have not had a chance to go over them. They are substantively different than what the Staff has prepared. It contains references and cross-references to parts of the record that I have not had a chance to go over, and I would like this pushed off until the next meeting, so I can review it.

CHAIRPERSON REYNOLDS: Okay. I understand your position, Commissioner Yaki. Would the Commissioners be amenable to a poll vote on this
issue?

VICE CHAIR THERNSTROM: I have a question, Mr. Chairman. What version are we voting on here? I thought we were voting on the Staff -

COMMISSIONER YAKI: He was reading from the other one, from Commissioner Heriot's.

VICE CHAIR THERNSTROM: You said that we were -- unless I misunderstood something, that we were voting on what was in our briefing book. If that's not true, then, of course, we haven't had time, since it came in at the last moment.

CHAIRPERSON REYNOLDS: Yes. I, actually -- well, I'm past that moment. I don't disagree -I have objection to -- I'm concerned with Commissioner Yaki's request. I'm asking the Commissioners would they be amendable to having a poll vote on this issue, if that's the appropriate term.

COMMISSIONER HERIOT: What is a poll vote?

CHAIRPERSON REYNOLDS: I'm sorry?

COMMISSIONER HERIOT: What do you mean?

COMMISSIONER GAZIANO: See where we're leaning.

CHAIRPERSON REYNOLDS: No, I'm sorry. I guess, I'm using the incorrect terminology. Essentially, after everyone reviews the document we
would just take this vote via email.

    COMMISSIONER HERIOT: Oh, that's fine with me, or we could do it on the telephone.

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

    CHAIRPERSON REYNOLDS: Yes.

    COMMISSIONER YAKI: I think that it is a disservice to the transparency of this Commission if we simply read this, and then simply vote on it without any substantive discussion on the record for anyone to understand why the vote was one way or another, why certain Commissioners voted one way or another. I'm very uncomfortable with a notational vote for findings and recommendations -

    CHAIRPERSON REYNOLDS: And than you for providing me with the correct language.

    COMMISSIONER GAZIANO: Mr. Chair, in this circumstances, I would want to hear from Commissioner Heriot, who proposed them, but I don't think there's a problem in just deferring the discussion to either a telephone meeting, or our next in-person business meeting.

    CHAIRPERSON REYNOLDS: Okay.

    VICE CHAIR THERNSTROM: And I would request that it be an in-person business meeting,
because these telephonic meetings do not meet the criteria that Commissioner Yaki just spelled out.

CHAIRPERSON REYNOLDS: Well, I am on the phone now, and things are going okay.

VICE CHAIR THERNSTROM: Yes, I know, but the telephonic meetings, in general, really are not the same as -- when we're all on the telephone, not the same as a public meeting.

CHAIRPERSON REYNOLDS: That is correct, but I do believe that the public will be able to understand the rationale behind anyone's vote, any of the Commissioners who would care to discuss their reasoning.

VICE CHAIR THERNSTROM: Well, I would like to move that we defer it until the last -- next in-person meeting.

COMMISSIONER YAKI: I'll second that.

CHAIRPERSON REYNOLDS: Okay. Well, Vice Chair Thernstrom, rather than taking a vote, does anyone have a concern with pushing this out to our next in-person meeting?

COMMISSIONER GAZIANO: I have no concern, except that I don't want to endorse the principle that we can't, when we want to, take up findings and recommendations on telephone meetings. But, with that
understanding, I'm happy that this be deferred to the next in-person meeting.

CHAIRPERSON REYNOLDS: Okay. Very good. Unless there's an objection, that's what we'll do.

COMMISSIONER YAKI: Thank you, Mr. Chair.

CHAIRPERSON REYNOLDS: Okay. Next up, exhibits, Youngstown, Ohio. At the March 12, 2010 meeting, the Commission postponed consideration of Commissioner Kirsanow's proposed letter to Members of the City Council of Youngstown, Ohio regarding the Police and Fire Department's use of racially bifurcated test results in hiring. Commissioner Kirsanow's letter was included in the meeting binder sent to Commissioners on April 8, 2010, and circulated it again on behalf of Commissioner Gaziano with some minor edits. I move to approve the letter, as amended, for sending to the leaders of the Youngstown City Council. Is there a second?

COMMISSIONER GAZIANO: Second.

CHAIRPERSON REYNOLDS: Discussion?

COMMISSIONER YAKI: Why?

CHAIRPERSON REYNOLDS: Commissioner Melendez, how do you vote?

COMMISSIONER MELENDEZ: No.

CHAIRPERSON REYNOLDS: Commissioner
Gaziano.

COMMISSIONER GAZIANO: Yes.

CHAIRPERSON REYNOLDS: Commissioner

Heriot.

COMMISSIONER HERIOT: Yes.

CHAIRPERSON REYNOLDS: Commissioner

Kirsanow.

COMMISSIONER KIRSANOW: Yes.

CHAIRPERSON REYNOLDS: Okay. Commissioner

Yaki.

COMMISSIONER YAKI: No, and I'll be sending a letter expressing my opposition to the Commission's position on this.

CHAIRPERSON REYNOLDS: Vice Chair Thernstrom.

VICE CHAIR THERNSTROM: Yes.

CHAIRPERSON REYNOLDS: Commissioner

Taylor.

COMMISSIONER TAYLOR: Yes.

CHAIRPERSON REYNOLDS: And I vote for it, also. Okay. The motion passes.

Okay. Included in the materials that was -- materials in your binders, there is a briefing proposal dated April 8, 2010 on -- it's entitled Anti-Asian Violence in South Philadelphia High School.
This was prepared by Vice Chair Thernstrom. Vice Chair Thernstrom, would you care to discuss your proposal?

VICE CHAIR THERNSTROM: I really did discuss it last time, and I don't have the proposal right in front of me. Hold on a minute. I really did discuss it last time. This is -- it's, once again, the Pew, I believe it was Pew, has come out with a report on the level of disorder. It's not simply violence, it's also disruptive disorder in urban -- particularly, urban high schools, so not confined to them.

In other words, this is not a one-off, the South Philadelphia horrendous facts in South Philadelphia. This is a national problem that is too little discussed in literature on education. This is hardly ever brought up, and yet disorder and violence in the schools means little learning takes place. And disorder has -- sometimes it can be the kind of intergroup violence that we saw in South Philadelphia, sometimes it can be intragroup violence, sometimes it can be just gratuitous whatever, and the disorder ranges from just randomly walking in and out of classrooms, running up and down halls, gangs meeting for one reason or another in a threatening manner,
kids not being safe walking to and from school. And the South Philadelphia is -- the situation is so common, it's so much part of the educational landscape that it's like the weather, and nobody reports it. But it finally got so bad in South Philadelphia, and it was so ugly, and it was inter-ethnic, or interracial, more accurately, that it got some press.

And I think that this is a topic we should have long ago addressed. Again, it's not isolated. It's not a one-off, and it's a real civil rights issue.

In the Philadelphia context, specifically, the Asian students were denied a safe -- have for a long time been denied a safe learning environment, really. But, you know, again, the safe learning environment is something we cannot expect in too many schools. And when you ask parents, as all the major pollsters have done at one time or another, what is it that -- why are you so in favor, for instance, of school choice? Why do you favor charter schools? Why those, when the voucher question is brought up, why do you favor vouchers? The first answer involves school safety, not learning, not the quality of teachers, but school safety. So, this is an extremely important topic, and it's one that I would like to see us address.
CHAIRPERSON REYNOLDS: Comments?

COMMISSIONER GAZIANO: Mr. Chair, I'd like to just ask a question or two of either the Vice Chair, for our own Staff. I think this is pretty promising, and I'm favorably disposed, but I'm not sure whether we might want to define a few of the facts or proceedings a little bit more before we set up what our briefing or impression might be on this. And my principal question is, there's a -- I can't find it, but I read this earlier, that the Department of Justice had referred the matter to the English Language section of the Civil Rights Division. Do you know -

MR. FAY: Educational Opportunity section.

COMMISSIONER GAZIANO: Okay. Educational Opportunities Section. That seems to be a odd referral, and maybe a matter that we want to spend a little bit more time on, if that's the case, because then our investigation is not just on the facts, but what the DOJ is doing about it, whether that's an appropriate referral. But my other question is whether they haven't also referred it to another section of DOJ, and I wonder if we could have someone from Staff, if we don't know the answer to that, confirm with DOJ that fact first, and then might be
able to know whether we really should be focusing more on DOJ, as well as the facts on the ground. Is that possible?

STAFF DIRECTOR DANNENFELSER: We can look into that and see what information we can provide the Commissioners.

COMMISSIONER GAZIANO: Because if the DOJ is doing a great job on this, then we might want to do our own investigation, but it would take on a slightly different flavor. If DOJ is engaging in what seems to us to be inadequate or irregular conduct, then we'd want to make that a little bit more of the focus of our investigation.

VICE CHAIR THERNSTROM: I'm perfectly open to that suggestion. I would say that since this has been going on for years, and not simply under this Administration, obviously, but previous administrations, where the DOJ has really not provided sufficient attention to the problem. Whatever the answer is, they've been delinquent, but I'm happy to go down that road. It would be nice to throw -- in other words, we can throw in a little history here.

COMMISSIONER GAZIANO: Not just history, but you might want to focus what our Staff's resources are going to be, and the type of witnesses that we're
going to call, instead of just investigating Philadelphia, that we look a little bit more into what DOJ is, and has been doing on it.

VICE CHAIR THERNSTROM: That's fine with me.

COMMISSIONER GAZIANO: Okay.

COMMISSIONER HERIOT: What about the issue of Secretary Duncan's discussion of disparate impact and school discipline? Does that go with this?

VICE CHAIR THERNSTROM: I wouldn't know yet. I mean, I -- you know, we're at stage one here, but, certainly it's possible.

COMMISSIONER HERIOT: Because there may be more coming from the Department of Education on that issue shortly, but I would think that it works pretty well with the general issue in the Concept Paper.

COMMISSIONER YAKI: Mr. Chair, this is Commissioner Yaki. I have been following closely the events in South Philadelphia, obviously, with members of the Asian-American legal community, and civil rights community, and all that, how this relates to perceived civil rights violations on their part. I think what's important is that -- what I see from this, what Commissioner Thernstrom has proposed, is something that, I think, has had, I would say -- I
wouldn't say kid gloves, I would say blind eye by any number of different agencies, including school districts, themselves, for many years. And I think it's important that we not start leaping to what are the deficiencies of the current Department of Justice, or what have you, or the Secretary of Education, and make sure that we have a well-grounded, well-researched bibliography and data on this issue, and on the problem, as described by Commissioner Thernstrom, because that is, I think, probably the most effective, and the most powerful means by which to then elevate it to any additional level. To simply say well, let's look at this one instance, and what DOJ is doing with this one, or that one, I think begs the question of let's ensure that we remain true to what Commissioner Thernstrom has been talking about, which is much more -- a problem that's much more endemic to public high schools in this country, especially in urban centers. And it is certainly worthy of the attention of this Commission, and is right within the sweet spot and wheelhouse of what this Commission should be, and is charged with looking at. And I would not want us to divert too far from that in pursuit of any individual tact of what someone may have done with one instance or another. There is a baseline of data here, and
information that we should be putting together. And I support Commissioner Thernstrom's proposal.

VICE CHAIR THERNSTROM: Thank you. I agree with what you just said.

CHAIRPERSON REYNOLDS: Okay. A lot has just been said. I recommend that the Staff Director working with Vice Chair Thernstrom and other Commissioners, that the Concept Paper incorporates in coherent fashion the discussion that we just had, and see if we can present a document that would be ready to vote on.

COMMISSIONER YAKI: Great.

VICE CHAIR THERNSTROM: That's fine with me.

COMMISSIONER YAKI: Let's move on.

CHAIRPERSON REYNOLDS: Okay. Next up is our calendar for 2011 for meetings. Earlier this week, the Staff Director submitted a proposed Commission Meeting Calendar for 2011 calendar year. In-person meetings will begin at 9:30 Eastern Standard Time, telephonic meetings will start at 11:30 Eastern Standard Time to accommodate our West Coast Commissioners, as is our current practice. I move to adopt the Commissioner Meeting Schedule as circulated. Is there a second?
COMMISSIONER MELENDEZ: Commissioner Melendez here. I haven't received the proposed schedule.

CHAIRPERSON REYNOLDS: Okay. Marty, did you circulate this document? Did it come from you?

STAFF DIRECTOR DANNENFELSER: Yes, it was sent to all Commissioners by email.

COMMISSIONER MELENDEZ: And when was that?

STAFF DIRECTOR DANNENFELSER: I believe it was on Wednesday.

COMMISSIONER MELENDEZ: Okay. I just checked my email, and I don't find it on there.

CHAIRPERSON REYNOLDS: Okay.

STAFF DIRECTOR DANNENFELSER: Let me see if I have it with me, that I can try to resend it to you.

CHAIRPERSON REYNOLDS: That being the case, let's table discussion of the calendar.

COMMISSIONER GAZIANO: Mr. Chair, maybe we need to table the vote, but could I just inquire about one possible change, so that we could have a brief discussion of it, anyway?

CHAIRPERSON REYNOLDS: Sure.

COMMISSIONER GAZIANO: On April, I would prefer the 8, rather than the 15, and that does
seem to be closer to the equal interval between March 11 and May 13. But does that -- doing it on the 8, rather than the 15, present an issue that anyone is aware of?

STAFF DIRECTOR DANNENFELSER: No, we were in-between those two dates.

COMMISSIONER GAZIANO: You're right, it's close, but I would -- it happens close to my daughter's spring break. I don't know if that presents an issue for anyone.

STAFF DIRECTOR DANNENFELSER: I think the issue there was the telephonic meeting, if the telephonic meeting were to come two weeks later, that would be on Good Friday, and I think that's we went to the 15, so that we would not have the telephonic meeting -

COMMISSIONER GAZIANO: But we could, perhaps, still have the telephonic meeting whenever you schedule it.

STAFF DIRECTOR DANNENFELSER: That's true.

COMMISSIONER GAZIANO: Okay.

COMMISSIONER YAKI: Mr. Chair, this is Commissioner Yaki. I have two statements to make about this. One, I think it's extremely premature a year out when we are going to have, according to the
schedule provided by the General Counsel, two, three, possibly four new Commissioners coming on board toward the end of the year, number one. Number two, and just my own gut sense, on April 8, I believe that is probably smack dab in the heart of when this city is turned upside down by Cherry Blossom sniffers. And it is extremely difficult to deal with flights, and hotels during that period of time, just as an aside. If someone, for example, needed to make a last minute change in plans, that date earlier would be -- make it very difficult. But I understand Commissioner Gaziano wanting to deal with the spring break issue for his children, and I absolutely respect his desire and willingness to do that, and want to accommodate that, as well. I just want to point that second factor out. But as for the first factor, I just have serious problems with trying to do a calendar this far out for next year on any number of different levels.

And I would, also, just like to point out that for reasons that I do not understand, in previous years, we have always listed the meeting dates for the Commission on the Commission website. When you go on to the Commission website right now, the only meeting dates that come up for 2010 are the meetings that have previously been held. I don't think that helps people
who want to attend, or want to know about when we meet
in the future plan their schedule. And, certainly, it
means, for me, I'm constantly having to try and find
the email with the dates on it, rather than simply
referring to the website, where they should be.

VICE CHAIR THERNSTROM: Mr. Chairman, let
me also say that I've been confused a couple of times
about the dates they've gotten on the website, and
then been a little bit -

COMMISSIONER YAKI: Because they're the
2009 dates.

VICE CHAIR THERNSTROM: Yes. I was
flabbergasted by the fact that all of the 2010 dates
aren't there. But, I also have to say it doesn't
matter what I vote on the April meeting today. I
mean, as of January, the calendar will probably be
torn up. I mean, what are we doing voting on this
entire calendar in April, and in all the years, if I'm
not mistaken, that I have been on this Commission, we
have never voted this early on the subsequent year.
And it is particularly absurd in that any vote is so
meaningless.

COMMISSIONER HERIOT: Mr. Chairman, my
problem is that academic conferences get scheduled
more than a year out, so I'm already getting inquiries
for 2011. And that's why I believe we should, indeed, set our schedule early; that is, it doesn't have to be today, but it should be by next month. It's true that we're going to have some problems with people coming on board next year, but they're not going to be coming on board until December, and we, obviously, have to be setting these dates long before then. So, I would strongly prefer that we do it either today, or next month, because, otherwise, I'm having to hold dates, and it's very, very inconvenient for people involved with projects that I'm involved with.

VICE CHAIR THERNSTROM: But whatever dates --again, I reiterate, whatever dates we vote on are not established dates. They are -

COMMISSIONER HERIOT: The presumption will be in favor of other dates that's been established. People will try to work around them.

VICE CHAIR THERNSTROM: I think so. They're going to have to work -- we're going to have to work with the people who come on new to this Commission, and we will have to have the courtesy to say to them what dates work for you, and do these dates work for you? So, I do not think these are dates -- you know, you can vote them, or not vote for them, but I don't think that they're meaningful.
CHAIRPERSON REYNOLDS: Okay. Since I won't be here -

(Simultaneous speaking.)

COMMISSIONER GAZIANO: Gerry, have you not requested a reappointment from the President? Or maybe you can talk off the record on that, but I'm hopeful that if you seek it, he will appoint you.

CHAIRPERSON REYNOLDS: All right. Yes, let's have that off the record discussion. Okay, folks, what are we doing here?

VICE CHAIR THERNSTROM: We are tabling the question of the calendar for next year for the moment.

COMMISSIONER GAZIANO: Yes. My own thought is that whether they're meaningful or not, if some of us think they're helpful, we should consider it sooner, rather than later.

COMMISSIONER HERIOT: Well, Mr. Chairman, once we vote them in, they're obviously meaningful, because then we'd have to have a motion to withdraw them. So, it's really very helpful for me to be able to tell people that I work with on other projects that I am likely, very likely to be free for a program of theirs. So, yes, I would like to do this soon.

VICE CHAIR THERNSTROM: Mr. Staff Director, when in the past have we voted the next
calendar year's meetings, the schedule? I do not believe it's ever been as early as this.

COMMISSIONER HERIOT: I think we did it in September last time.

STAFF DIRECTOR DANNENFELSER: Yes, I think usually about August or September.

VICE CHAIR THERNSTROM: Well, that's a long way from April.

COMMISSIONER HERIOT: Yes, but it's before the new members come, so the new member problem doesn't apply.

VICE CHAIR THERNSTROM: Nevertheless, I mean, I just don't -- I'm sorry, I just -- with all due respect, I think this is too early a discussion.

CHAIRPERSON REYNOLDS: Okay, folks. Gail, are you comfortable with tabling this?

COMMISSIONER HERIOT: Until next month, sure. I've got no problem with that.

CHAIRPERSON REYNOLDS: Okay.

VICE CHAIR THERNSTROM: And we'll have the same objections next month.

COMMISSIONER HERIOT: Well, then I will object.

CHAIRPERSON REYNOLDS: We will vote on whether to move forward or not. Okay. Would the
Staff Director please report on the Staff Level Meeting with the EEOC officials concerning the Commission's request for documents related to their civil rights -- related to the Agency's Civil Rights Enforcement.

STAFF DIRECTOR DANNENFELSER: Thank you, Mr. Chairman. At this point, I'd like to ask Attorney Advisor, Chris Byrnes, to come to the table and give us a briefing on that topic.

MR. BYRNES: Thank you, Mr. Chairman, and Mr. Staff Director.

As the Staff Director mentioned in his memorandum of March 23, he, the General Counsel, and I met with staff from the EEOC to discuss the responses to our clearinghouse requests for documents related to Civil Rights Enforcement. I'm going to provide a very brief summary of their responses to each category of documents that the Commission has requested.

The EEOC has provided an Excel spreadsheet listing the case information, case number, court in which actions were filed for all of their civil filings for the first two quarters of fiscal year 2010. So, this corresponds to the complaints and motions to intervene that we requested. The EEOC has
promised to provide these spreadsheets in the future on a quarterly basis.

They have provided all Amicus and appellate briefs filed during the first two quarters of fiscal year 2010. Again, they have promised to provide these as they are filed. They will provide any new regulation, rule, or sub-regulatory policy guidance issued or proposed, as they are issued or proposed. So far, they have provided all the notices of proposed rulemakings that they have issued since October 1, 2009.

The EEOC's General Counsel, however, is adamant in refusing to provide non-confidential settlement agreements, reasoning that such publication may adversely affect their litigation posture. The EEOC did not cite any non-disclosure obligation to support this decision. Indeed, they had acknowledged that they had posted these in the past. Instead, they have indicated that we are free to contact the new chair of the EEOC, Jacqueline Berry, to appeal this decision.

Now, with respect to the final categories of documents that we requested, these would be all letters of determination finding cause and a systemic basis, all Commissioners charges alleging
discrimination of a systemic nature, and all letters
of determination indicating the expansion of an
individual charge into a class proceeding. The EEOC's
position is that these documents cannot be made public
pursuant to the confidentiality provisions of Title 7
of the Civil Rights Act of 1964; that is, unless they
are used in a lawsuit; that is, that they are inserted
into the record, or the same charges are recited in
the pleadings. Now, it was the EEOC's opinion that
redaction of personally identifiable information from
these documents would render them virtually useless to
the public.

The Commission could request, at a
minimum, that the EEOC provide on a monthly basis the
following summary information, the number of letters
of determination finding cause and a systemic basis
issued broken down by type of discrimination, such as
race, sex, national origin, religion, retaliation,
disability, age, and the Equal Pay Act. The number of
Commissioner's charges filed alleging discrimination
of a systemic nature, again broken down into the same
categories. And, finally, the number of letters of
determination issued indicating the expansion of an
individual charge into a class proceeding, again
broken down the same way.
The EEOC already provides this information to the public on an annual basis. A review of the Commission's prior publications on EEOC Civil Rights Enforcement indicates that the EEOC has provided us aggregated data in the past, such as what I just described in response to our interrogatories. If Commissioners feel that such information would not satisfy our original clearinghouse request, the Commission could request the EEOC redact personally identifiable information from the letters and charges, and provide the redacted copies to us, leaving aside the judgment of whether they feel those documents would be particularly useful to the public.

I'd be happy to answer any questions you might have.

CHAIRPERSON REYNOLDS: Questions? Okay. Mr. Byrnes, thank you, and I'd also like to thank the EEOC for providing some of the information that we requested. I'm hopeful that through continued discussions we can narrow the areas of dispute.

COMMISSIONER GAZIANO: Mr. Chair, I would just like to second that. I'm glad that our Staff was able to convince them that their previous responses were wholly inadequate, and that they've even agreed to that. I think there may be some areas, given the
substance of their response, where we can work some
accommodations. Some of their answers still, from
prior reports I've gotten, or the written report we
all got, are indefensible, but there may be some ways
that we can work out accommodations, so I just thank
the Staff, and suggest that we need to keep working
with the EEOC to convince it to do the right thing.

CHAIRPERSON REYNOLDS: And, also, to
recognize when they make legitimate arguments.

COMMISSIONER GAZIANO: Certainly, some of
them may be based on, at least, reasonable grounds
that we can accommodate, and still get the information
at the Commission level. There's a disclosure issue
that, at least, we need to discuss with them further.

CHAIRPERSON REYNOLDS: Any other comments,
questions, statements?

Okay. Next up, I'd like to talk about a
timetable for getting the Briefing Reports out. As
you're aware, the Commission has a number of pending
reports, some of which are ready for Commissioner's
review. We need to set some timetables to get these
documents moved to completion. Mr. Staff Director,
please tell me how many reports are pending, and the
status of each of these reports.

STAFF DIRECTOR DANNENFELSER: Thank you,
Mr. Chairman.

The Blaine Briefing Report is pending, the
Blaine Amendments Briefing Report, and that was
submitted to Commissioners on March 9, but that is
one that we need to set a timetable for a comment
period. The English In The Workplace Briefing Report
is pending. The Office of General Counsel submitted
that to the Office of Staff Director on March 12 of
this year. We, subsequently, had a legal sufficiency
review that has raised some additional issues that we
are trying to sort out working with OGC and the Office
of the Staff Director, so we do expect to get that
resolved within -

COMMISSIONER GAZIANO: Can you describe
that in any way? What is the legal -

STAFF DIRECTOR DANNENFELSER: Just, I
think, really characterizing how the EEOC has handled
this issue. That seems to be a point of how to
characterize that in the report. There's also an
issue, another time factor that we believe that
because the EEOC would be mentioned pretty prominently
in this report, that we need to provide an affected
agency review for the EEOC, so that would probably be
a few weeks that we would have to wait for their
response on that particular draft report.
The Health Disparities Briefing Report was sent to Commissioners on March 25, and that is another one where we need to set a timetable for Commissioners to comment on the report. Let's see. And then the STEM Briefing Report is in progress right now. The period for the Commissioners to comment was extended to May 3, 2010, so those are the reports that are awaiting Commissioner consideration at this point, Mr. Chairman.

CHAIRPERSON REYNOLDS: Okay. I'm sorry, what was extended to May 3, 2010?

STAFF DIRECTOR DANNENFELSER: STEM.

CHAIRPERSON REYNOLDS: The 30-day review period, the deadline for the 30-day review period.

STAFF DIRECTOR DANNENFELSER: Yes, for the Commissioners to submit comments on any proposed revisions that they have for the draft report.

CHAIRPERSON REYNOLDS: Okay. I recommend that we take up -- that the first three briefing reports that we take up are Health Care Disparities, HBCUs, and STEM. The goal is to get these through our process, and voted on one way or the other by the end of the summer. With respect to the Health Care Disparities, I would suggest that we start the 30-day review period today, with edits due by May 14, that
we vote on the report by May 28 during a telephonic meeting, that we have -- yes, I know, Vice Chair Thernstrom. And that we have concurring and dissenting statements by June 28, and, finally, rebuttals by July 28, 2010.

And let me just go through the other two briefing reports, and then we can just open this up for discussion. I also recommend that we vote on findings and recommendations for the HBCUs on May 14, concurring and dissenting statements will be due on July 11, and will be concurrently reviewed, and then the rebuttal for HBCUs will be due August 11. That, too, will be written concurrently with STEM.

And, finally, for STEM, the 30-day review would start on May 3. The period would end on June 1. We would have a vote on the report June 11, concurring and dissenting statements would be due on July 11, with rebuttals due on the 11. So, I open it up for discussion.

COMMISSIONER TAYLOR: Mr. Chairman, as to the Health Care Disparities report, which was circulated just a few weeks ago, I appreciate the valiant effort at summarizing this. I think this is a, frankly, difficult topic to summarize for the Staff. What I would propose is that we adopt a
somewhat streamlined version to -- frankly, I want to make sure this gets out the door and is useful to the public. So, what I would propose we would do, at least with respect to this Briefing Report, is that we would summarize even more the summary, so that it's more than introduction, and then we would focus on the panelist's written statements. Particularly, in your positions talk it's very difficult to, I think, properly summarize what they have said, and be fair to characterizations. And I want to be true to both sides in this. And then to attach the transcript as an appendix or a link on the electronic version. And this explains my abstaining on the prior vote. And then to allow Commissioners to submit statements in accordance with the time lines, Mr. Chairman, you just set out, but let the Commissioners submit statements on this. And, hopefully, we will be able to get some, if not findings, some recommendations that we can all agree on, but I would propose that somewhat streamlined process, at least as to this report.

VICE CHAIR THERNSTROM: Mr. Chairman, you know, as you know, there have been -- now four years have past since the briefing on HBCUs. And on the question of STEM, as well, there have been a lot of developments, there's been a lot of literature. I
mean, this is so stale, it's not to be believed. And
I think either we publish these reports with some
additional acknowledgment of the work that has been
done on these subjects, or we just don't bother. I
mean, it's, frankly, shameful that we have let this
kind of time pass. And it renders these reports a
little absurd. I mean, I just saw new data on the
question of minorities in STEM concentrations the
other day. I can't remember where it was, easy to dig
up.

CHAIRPERSON REYNOLDS: This subsequent
data, and this always occurs, does it contradict the
work that's contained in our report?

VICE CHAIR THERNSTROM: Well, I would have
to look at what the subsequent data are. I didn't
bother to do so. But, I mean, the problem is that
letting this kind of time go by is really -- makes
this Commission into something much less useful than
it should be.

CHAIRPERSON REYNOLDS: Vice Chair
Thernstrom, you have two issues, at least two issues
on the table, the timeliness of the reports, and then
there's the more substantive issue that you've thrown
on the table. If you're saying that subsequent
research, and the data that's out there now is
inconsistent with what we have in our document, I mean, that argument resonates with me. But if I understand you right, you're saying that you don't know if that's the case.

VICE CHAIR THERNSTROM: I don't know. I have not looked at the data. It's possible that it reinforces the case. But, in any case, it would be -- by the time we're now putting this out, not to acknowledge subsequent events with the HBCUs, and subsequent research with respect to STEM, is --

CHAIRPERSON REYNOLDS: Absurd.

VICE CHAIR THERNSTROM: Well, it's delinquent.

CHAIRPERSON REYNOLDS: Any other comments?

COMMISSIONER YAKI: Yes, this is Commissioner Yaki. With regard to Health Disparities, I would just like to, in terms of the ripeness, staleness, ready for cultivation, or whatever you may want to call it of the report, I would just note that one of the agencies that testified on that, the Agency for Health Research and Quality, just put out, I believe, two days ago its annual disparities report, so we should ensure that any -- if it's simply tracking and just adding to current data that was part of the Health Care Disparities analysis, we should, at
least, take a look at that to ensure, if there's consistency, or if there's inconsistency from what -- or new data that needs to be incorporated, we should take a look at that.

CHAIRPERSON REYNOLDS: Other comments?

COMMISSIONER YAKI: One more comment, Mr. Chair. This is Commissioner Yaki. I believe when -- because I don't have -- I can't access it on the calendar, when is our meeting in August?

VICE CHAIR THERNSTROM: There aren't usually meetings in August.

COMMISSIONER YAKI: I know, but when is our meeting scheduled for this August?

STAFF DIRECTOR DANNENFELSER: August 12.

CHAIRPERSON REYNOLDS: Staff Director, do you have the calendar available?

STAFF DIRECTOR DANNENFELSER: It's August 12.

COMMISSIONER YAKI: I just, from a logistical point of view, August 12 is --

COMMISSIONER HERIOT: August 13.

COMMISSIONER YAKI: Yes. From a logistical point of view, I am not a big fan of our rebuttals being due basically the same week, and travel week as Commission meetings. And I think you
have two separate things balancing on August 11.
That's just a point I'd like to make.

COMMISSIONER GAZIANO: Mr. Chair.

CHAIRPERSON REYNOLDS: Yes.

COMMISSIONER GAZIANO: First of all, I think it's helpful to layout the longer view, but I didn't know if you were going to require a vote, but we can always modify by a week or so. We usually do that when we're adopting Part B, so I would also ask, unless there's some further discussion. I assume this could be reduced to writing and sent to us.

But, the other point I wanted to make is, I certainly endorse the approach Commissioner Taylor suggested for completing the Health Disparities report, and just -- I don't know that we need to -- it doesn't sound -- it sounds like everyone's in agreement with that. I don't know whether we need a vote on that, or not.

CHAIRPERSON REYNOLDS: Okay. So, folks, the dates that I just laid out, let's -- well, I'm sure you can all correct me if I've gotten it wrong, but, I mean, we will work towards these dates with the understanding that, as has been the case in the past, where we have to build in some flexibility, we will consider that, but these are the dates that we are
marching towards.

STAFF DIRECTOR DANNENFELSER: Mr. Chair.

CHAIRPERSON REYNOLDS: Yes.

STAFF DIRECTOR DANNENFELSER: This is the Staff Director. I just want to clarify something with respect to Commissioner Taylor's proposal, and the timetable that you're proposing. If the clock is starting today on the Commissioner review period for Health Disparities, and we are going to shrink the summary of the report to something along the lines of an introduction, is the proposal then that Commissioners will submit proposals on how that language should be -

COMMISSIONER TAYLOR: No, my proposal is that the time period should apply to the Commissioner statements, so for purposes of crafting a statement you, essentially, should be reviewing the written submissions, the transcript. And, again, my hope is that the introduction will not be controversial, so that Commissioners shouldn't be delayed in drafting a statement waiting for the introduction, because the point is to make the introduction, again, not controversial. So, the time line I would like to see imposed would relate to the Commissioner's statements, at least as to the Health Care Disparity Report.
STAFF DIRECTOR DANNENFELSER: But, I guess, I just want to clarify what should be happening during this next month between now and May 14.

COMMISSIONER TAYLOR: In my mind, the Commissioner statements would be due May 14.

VICE CHAIR THERNSTROM: Mr. Staff Director, can you send around -

STAFF DIRECTOR DANNENFELSER: Well, the Chairman proposed that we vote on May 28 on a telephonic meeting on May 28.

COMMISSIONER GAZIANO: Well, I suppose that you would put together that -- an alternative to Commissioner Taylor, that you would put together exactly what he has described and circulate to us. We can begin writing our statements -

COMMISSIONER TAYLOR: Right. And we would vote on that on the 28.

COMMISSIONER GAZIANO: We would vote on that at Part A.

COMMISSIONER TAYLOR: Correct.

STAFF DIRECTOR DANNENFELSER: But will there be just an up or down vote, basically, by the Commissioners without a comment period then on the introduction? We'll send out an introduction, and --

COMMISSIONER TAYLOR: That would be my
intention.

STAFF DIRECTOR DANNENFELSER: Okay.

COMMISSIONER TAYLOR: That the introduction would be fashioned in a way that it shouldn't prompt much debate. It's an introduction, and prepared written statements.

STAFF DIRECTOR DANNENFELSER: And we will forego what is now in there as the summary of the proceedings, and so on.

COMMISSIONER TAYLOR: Correct. Correct.

VICE CHAIR THERNSTROM: Mr. Staff Director, could you send around very soon, as soon as possible, these dates that we've just talked about?

STAFF DIRECTOR DANNENFELSER: The dates for the review of the reports?

VICE CHAIR THERNSTROM: Yes.

STAFF DIRECTOR DANNENFELSER: Yes, we'll get that out today.

COMMISSIONER YAKI: Mr. Chair, this is Commissioner Yaki. I have no idea what Commissioner Taylor just talked about. I do not understand -

COMMISSIONER TAYLOR: I was going to make a motion.

COMMISSIONER YAKI: I do not understand what he means by Commissioner statements going before
we've adopted findings and recommendations. I don't
understand how -

COMMISSIONER TAYLOR: No, it would be in lieu of. It wasn't -- I wasn't suggesting we would have findings and recommendations. My thought is that we submit the Commissioner statements. And, frankly, I would then, in my own mind, after looking at it, determine whether or not I would want to propose findings and recommendations, but I may not. And that just may end the matter. If we can't -- my sense is that if we can't -- if I don't sense a consensus forming fairly quickly on the findings and recommendations, they tend to go nowhere, and so I would look at the prepared statements, look at the Commissioner statements, and determine in my mind whether it made sense to even advocate for a Part B to include findings and recommendations, and it may not.

COMMISSIONER YAKI: So, what you're saying is that there's also just the possibility that there may be no -- if there is no Part B, there may be no Commissioner statements, anyway. I guess, I'm just -- I'm at a loss to understand why you want Commissioner statements first out of the box, when, generally, they relate to actions that the -

COMMISSIONER TAYLOR: Because it hasn't
worked in the past, so I'm trying to change the order.

I'm trying to get Commissioners to focus, and comment on what the panelists have said. And if, in my mind, then I see something that is worth trying to develop a consensus around, then I would make that effort. But it hasn't seemed to work to try to recommend findings and recommendations first, so if -- and, again, I'm very comfortable, if we end up with a short summary, the panelist statements, and then submissions from the Commissioners, to me, I'm very comfortable with that. And that may end the matter.

STAFF DIRECTOR DANNENFELSER: Can we clarify, again, then under your proposal, what is the date for Commissioner statements?

COMMISSIONER TAYLOR: The 14th.

STAFF DIRECTOR DANNENFELSER: Of May.

COMMISSIONER TAYLOR: Of May.

STAFF DIRECTOR DANNENFELSER: And is there a rebuttal period?

COMMISSIONER GAZIANO: Oh, I maybe misunderstood earlier. Unless you -- I'd probably want a little bit more time to read the -- reread the statements and think about it. And I, certainly, like your possible suggested order, but that we might want statements, and rebuttal. So, the next order, if it's
all right, is to -- having the Staff assemble the
report in the manner that you've suggested. We'll
approve it, or not approve it on what was it, May
th
28 , or what date -

STAFF DIRECTOR DANNENFELSER: The 28 .
That's what the Chairman proposed.

And then we can, at some point, whether it's before
then, or after then, agree to the statement, and
rebuttal period.

COMMISSIONER YAKI: When is the meeting in
May, again?

STAFF DIRECTOR DANNENFELSER: The in-
th
person meeting is May 14 .

COMMISSIONER YAKI: So, we have statements
due the same day that we're here. I just can't -- I
just don't think that's -

COMMISSIONER GAZIANO: Is it possible,
since we're going to abbreviate the report, that we
actually vote on it, Mr. Chair, on the May 14 meeting?

CHAIRPERSON REYNOLDS: I'm sorry. Please
repeat your question.

COMMISSIONER GAZIANO: Since we're not
going to be summarizing the statements, and there's
less for Commissioners to comment on, the only thing
that Commissioners could really comment on is the introduction, which is going to be non-controversial. Could we, potentially, have the Staff send that to us in the next week, or however long it takes, and then vote on Part A on May 14?

CHAIRPERSON REYNOLDS: Yes.

COMMISSIONER GAZIANO: Okay. And then we can set -

CHAIRPERSON REYNOLDS: This is going to be slimmed down, so there's less material to review.

COMMISSIONER GAZIANO: Or at least nothing to object to, since it's the people's own statement. And then we can decide on the Commissioner statement and rebuttal period at the May 14 meeting.

COMMISSIONER YAKI: That's not what you wanted.

COMMISSIONER GAZIANO: Will you accept that as a friendly amendment?

COMMISSIONER TAYLOR: I will accept that as a friendly amendment, yes.

COMMISSIONER YAKI: Okay. That will be much better, from my point of view.

VICE CHAIR THERNSTROM: So, there's going to be some rhetorical fluff out up front that nobody can object to.
COMMISSIONER TAYLOR: Correct.

COMMISSIONER HERIOT: An Executive Summary is what we're talking about. Right? Like, a three to five-page piece of -- three to five-page. Is that what we're thinking of, Commissioner Taylor?

COMMISSIONER TAYLOR: Yes. And I would not characterize it as rhetorical fluff.

VICE CHAIR THERNSTROM: Real substantive stuff. Right?

COMMISSIONER YAKI: It will be the fluffer nutter of fluff.

COMMISSIONER GAZIANO: Non-controversial Executive Summary.

COMMISSIONER YAKI: Correct.

VICE CHAIR THERNSTROM: That will be immensely useful for the public to read.

COMMISSIONER YAKI: Which I bet will not be non-controversial.

CHAIRPERSON REYNOLDS: Okay, folks, next up, the next item is an update on the National Civil Rights Conference. The Concept Paper has been revised taking into account some of the Commissioner's submitted comments, as well as their comment during meetings. For example, several Commissioners have recommended that we have fewer panelists on each panel
to lengthen the amount of time that each panelist has
to discuss their point of view. In recent months,
I've met with a number of potential panelists, and
they are relaying a high level of interest in the
proposed event. The Staff Director has convened a
Staff Working Group to jumpstart activity on the
logistics of the conference. For example, securing a
venue, and ensuring that we are in a position to -- to
insure that we follow our procurement rules.

The main item is to settle on a date for
the event, and the dates that I propose are in late
August, early September. And the dates for August,
would include, I believe -- well, I don't believe, the
17, 18, 19, or 24, 25, and 26. And the --

COMMISSIONER GAZIANO: I'm sorry. Could
you slow down?

CHAIRPERSON REYNOLDS: The 7, 8, 9,

14, 15, or 16. Staff Director has advised that
for budget in fiscal year closeout purposes, that
holding the event by September 9 would be
preferable. So, at this point, the dates that I just
threw out, comments?

STAFF DIRECTOR DANNENFELSER: Mr. Chair,
could you repeat the dates? I think not everyone was
able to get them down the first time.
CHAIRPERSON REYNOLDS: In August, we're looking at the 17, 18, 19, 24, 25, or 26.

In September, we're looking at the 7, 8, 9, 14, 15, or 16.

COMMISSIONER GAZIANO: Mr. Chair, I suppose I'll begin. I could probably plan around almost any of these, but since, if people are like me, and people in Washington, any of the times in August may conflict with family vacations, or academic, or scholarly trips, and whatever, so that I suspect that any of the September dates would be better for most speakers, and most participants.

Notwithstanding the difficulty in closing out the calendar, I also tend to think that the 14, 15, and 16 may be the earliest of those dates, would be better. Sometimes, the sort of first week after Labor Day is late this year, is it not?

COMMISSIONER TAYLOR: I believe it is, yes.

COMMISSIONER GAZIANO: Yes. The first week after Labor Day also seems not ideal, so I would want to hear from other Commissioners, but I think the 14, 15, and 16 might be better. And I would be willing to defer to the Chair, if the Chair wants that deference, to figure out what the best of those dates
COMMISSIONER HERIOT: Mr. Chairman.

CHAIRPERSON REYNOLDS: Yes.

COMMISSIONER HERIOT: I can do any of those dates except the 7th, 8th, and 9th of September.

So, as long as it's not scheduled for the 7th, 8th, or 9th, any of the other dates you mentioned work for me.

CHAIRPERSON REYNOLDS: Commissioner Yaki.

COMMISSIONER YAKI: Mr. Chair, Rosh Hashanah is September 8th and 9th. I was just informed of that, just for you to know. I have a longstanding family reunion vacation the last two weeks of August.

VICE CHAIR THERNSTROM: Mr. Chairman, I'm a little confused here. We earlier talked about the necessity of setting the calendar for next year a year ahead of time because there are so many potential conflicts with people's schedules, and now we're talking about a conference in August or September, where it would seem to me that the same point might apply.

COMMISSIONER HERIOT: Which side are you on? I thought you were the one to schedule late, now you're the one to schedule early?
VICE CHAIR THERNSTROM: Well, I -- look, frankly -

CHAIRPERSON REYNOLDS: Well, Vice Chair Thernstrom, do you have a state -- do you have a preference in terms of the dates that have been presented?

VICE CHAIR THERNSTROM: No, Mr. Chairman, I do not.

CHAIRPERSON REYNOLDS: Commissioner Taylor.

VICE CHAIR THERNSTROM: He's not here.

COMMISSIONER GAZIANO: He has stepped out.

COMMISSIONER YAKI: Elvis has left the building.

COMMISSIONER MELENDEZ: I have a question. This is Commissioner Melendez. How many days -- is this a two-day event, or what?

CHAIRPERSON REYNOLDS: A one-day event.

COMMISSIONER MELENDEZ: So, we're picking like either a Friday or a Thursday, is that what we're doing?

COMMISSIONER YAKI: It's midweek.

CHAIRPERSON REYNOLDS: Right now, we're looking at the dates that have been proposed. Thus far, the preference has been for the late September
STAFF DIRECTOR DANNENFELSER: They're all Tuesday, Wednesday, Thursday dates, I believe. Is that correct, Mr. Chairman?

CHAIRPERSON REYNOLDS: I would have to pull my calendar up. The 15, 16, and 17 of September.

STAFF DIRECTOR DANNENFELSER: You said 14, 15, 16, I thought, wasn't it?

COMMISSIONER YAKI: I thought you said 15, 16, 17.

COMMISSIONER GAZIANO: No, I thought it was 14, 15, 16.

CHAIRPERSON REYNOLDS: 14, 15, and 16 of September.

COMMISSIONER GAZIANO: Yes, that is a Tuesday, Wednesday, Thursday. And if no one has a strong preference between those, I would suggest leaving it to the Chair to tell us which of those three days he is able to secure the most number of speakers and the best venue.

CHAIRPERSON REYNOLDS: Yes, and that flexibility will be required because of those two issues, securing venue, and having a little bit of flexibility in terms of the invited panelists. All
right.

COMMISSIONER MELENDEZ: I have another question. Commissioner Melendez. Do we ever determine the cost of this for the budget?

CHAIRPERSON REYNOLDS: I forget what the number is, I apologize. But, and, Marty, correct me if I'm wrong, that we have sufficient money to cover the expense associated with the conference.

STAFF DIRECTOR DANNENFELSER: Yes, Mr. Chairman. I believe we're probably talking in the neighborhood of $125,000, give or take some, but we would have sufficient funds to cover that.

CHAIRPERSON REYNOLDS: Next item, update on the status of the 2010 Enforcement Report. Mr. General Counsel, you're up.

MR. BLACKWOOD: With regard to the hearing set for next Friday, just, generally, I can report that things are proceeding. The structure remains roughly the same as before. We're trying to, if anything, trying to streamline it to expedite completion. I do need, though, at some point to -- in fact, at this point, need to go into closed session to discuss a conversation I had yesterday with the Department of Justice.

CHAIRPERSON REYNOLDS: Okay. Mr. Staff
Director, walk me through the procedure for going into closed session. Do we want to save that until the end? Would it be possible, David, that we get through all the other items that you'd like to discuss, and save that for last, or does it make more sense to -- for us to get the new information?

MR. BLACKWOOD: No, I think we can save it to last. It's probably technically easier to do that.

VICE CHAIR THERNSTROM: Unless it's going to be within the next 20 minutes, I will not be here, but that's okay.

MR. BLACKWOOD: I think it would make sense to wait until then.

CHAIRPERSON REYNOLDS: Mr. General Counsel, please carry on.

MR. BLACKWOOD: I have nothing else to add, other than what I need to discuss in closed session.

CHAIRPERSON REYNOLDS: Okay. One other item, for this event, Commissioners who are interested --well, each Commissioner will be provided with an opportunity to make a two-minute statement, and those who want to make a statement, two-minute statements, that's fine. Those who don't, that's fine, too. At this point, Marty, what do we need to do to go into
closed session?

MR. BLACKWOOD: Well, do you want to talk about the other matters first?

STAFF DIRECTOR DANNENFELSER: Do you have any other items that you want to cover on the agenda?

CHAIRPERSON REYNOLDS: Okay. I'm with you now. Bear with me.

COMMISSIONER GAZIANO: Do you want to discuss Title IX first?

CHAIRPERSON REYNOLDS: Yes. Dr. Lerner, please provide us with an update on Title IX projects.

VICE CHAIR THERNSTROM: I don't believe he's here.

STAFF DIRECTOR DANNENFELSER: He's not able to join us today, Mr. Chairman, but I'm going to ask the General Counsel, who has been dealing with some of the related issues with regard to subpoenas and the like, if there are some things he can talk about in open session, which I believe is the case.

MR. BLACKWOOD: Yes. This is about Title IX, for those who just came back in. We're going to address in closed session later. With regard to Title IX, the status is that we have received the data we were requesting from the 10 schools that I discussed previously. We have one school that has been
delinquent, but asked for a continuance, and we have
four schools that have indicated that they will not
provide the data. And those are being handled
directly, as far as entering into negotiations, with
the assistance of the Chair, as far as trying to
resolve those differences.

With regard to the data, itself, Dr. Lerner has indicated that he believes -- much of the
data has already been input, and that he is working on
analyzing -- beginning the analyzing of the data that
we have from the 10 schools, and I believe he indicated that he thought he would be completed in
that task by the end of June.

STAFF DIRECTOR DANNENFELSER: That's correct.

MR. BLACKWOOD: As far as the other schools, keep in mind that of 10 schools, which I term
the consortium that agreed to bargain together, most of them provided the data timely several weeks, but
there are additional document requests that were outstanding, and those are due by next Friday, April
the 23rd. I have no indication from any of them that they will need additional time. And that is the
report.

CHAIRPERSON REYNOLDS: Questions?
Comments?

Okay. Next up, Mr. Staff Director, your report, please.

IV. STAFF DIRECTOR'S REPORT

STAFF DIRECTOR DANNENFELSER: Thank you, Mr. Chairman.

I don't really have anything to add to the report that was circulated. Part of it dealt with the Briefing Reports, and we've already had the discussion with respect to the Briefing Reports. So, at this point, I would just like to see if Commissioners have any questions.

CHAIRPERSON REYNOLDS: Hearing none, it's time go to closed session.

COMMISSIONER GAZIANO: What is the basis? Do you say that on the record?

MR. BLACKWOOD: I can say that it -- the ongoing negotiations that we have had with the Department of Justice with regard to our subpoena, to Department officials, and also discovery information that -- the dispute regarding those, the response there.

COMMISSIONER GAZIANO: And who should stay?

MR. BLACKWOOD: The Special Assistants and
the Commissioners can stay, as well as Ms. Tolhurst.

STAFF DIRECTOR DANNENFELSER: I'd like to request that the two Attorney Advisors in the Office of Staff Director be able to stay, as well.

MR. BLACKWOOD: That's fine, because there are some issues that will carry over to OSD, as well.

CHAIRPERSON REYNOLDS: Okay.

MR. BLACKWOOD: Somebody has to make a motion to go into closed session.

COMMISSIONER YAKI: So moved.

CHAIRPERSON REYNOLDS: Second.

Discussion? Commissioner Melendez, how do you vote?

COMMISSIONER MELENDEZ: Yes.

CHAIRPERSON REYNOLDS: Commissioner Gaziano.

COMMISSIONER GAZIANO: Yes.

CHAIRPERSON REYNOLDS: Commissioner Heriot.

COMMISSIONER HERIOT: Yes.

CHAIRPERSON REYNOLDS: Commissioner Kirsanow.

COMMISSIONER KIRSANOW: Yes.

CHAIRPERSON REYNOLDS: Commissioner Yaki.

COMMISSIONER YAKI: Yes.

CHAIRPERSON REYNOLDS: Commissioner --
Vice Chair Thernstrom.

COMMISSIONER GAZIANO: Stepped away.

CHAIRPERSON REYNOLDS: Commissioner Taylor.

COMMISSIONER GAZIANO: Stepped away.

CHAIRPERSON REYNOLDS: Okay. I vote in favor of the motion. The motion passes.

(Whereupon, the proceedings went off the record at 11:16 a.m., and resumed at 11:32 a.m.)

V. ADJOURN

COMMISSIONER YAKI: Move to adjourn.

VICE CHAIR THERNSTROM: I second it.

COMMISSIONER TAYLOR: I vote no.

(Laughter.)

COMMISSIONER GAZIANO: Aye on adjourning.

VICE CHAIR THERNSTROM: I've got to get out of here.

COMMISSIONER YAKI: That's the equivalent of saying we adjourn.

VICE CHAIR THERNSTROM: We adjourn.

(Whereupon, the proceedings went off the record at 11:33 a.m.)
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