

**In The Matter Of:**  
*BEFORE THE ARKANSAS DEPARTMENT OF  
EDUCATION  
CHARTER AUTHORIZING PANEL*

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*August 21, 2013*

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*Sharon Hill Court Reporting  
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BEFORE THE ARKANSAS DEPARTMENT OF EDUCATION  
CHARTER AUTHORIZING PANEL

#4 CAPITOL MALL  
LITTLE ROCK, AR 72201

August 21, 2013

A P P E A R A N C E S

PANEL MEMBERS:

Dr. Tom W. Kimbrell	Commissioner
Ms. Deborah Coffman	Chief of Staff
Mr. Mike Hernandez	Asst. Commissioner-Fiscal/Admin.
Mr. Jim Boardman	Asst. Commissioner-Research/Tech.
Dr. Megan Witonski	Asst. Commissioner-Learning Services
Dr. Karen Walters	Asst. Commissioner-HR/Licensure
Mr. John Hoy	Asst. Commissioner-P.S. Accountability

ALSO APPEARING:

Ms. Mary Perry	Director, Charter/Home Schools
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LEGAL COUNSEL FOR THE PANEL:

Mr. Jeremy Lasiter	ADE General Counsel
Ms. Kendra Clay	ADE Attorney Specialist
Ms. Valerie Bailey	ADE Attorney Specialist

I N D E X

	Page
Preliminary Matters . . . . .	3
Report-2: Current Charter App. Cycles . . . . .	4
A-1: Election of Officer . . . . .	5
A-2: Proposed Charter Amendment Request Form . . . . .	6
A-3: 2013-2014 Meeting Dates . . . . .	9
Court Reporter's Certificate . . . . .	25

E X H I B I T S

EXHIBIT ONE (1)

Instructions, Charter Amendment Request Form,  
Facilities Utilization Agreement

EXHIBIT TWO (2)

Proposed 2013-2014 Meeting Dates of the  
Charter Authorizing Panel

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P R O C E E D I N G S

COMMISSIONER KIMBRELL: Welcome to, I guess, the first meeting of the Charter Authorizing Panel as we now work under Act 509. My name is Tom Kimbrell, Commissioner of Education, and in the law I think I'm required to call the first meeting and get this thing rolling. So we do have an agenda, and I don't have a report with the exception of, I guess -- Mr. Lasiter, we need to officially name the Charter Authorizing Panel?

MR. LASITER: (Shaking head from side to side.)

COMMISSIONER KIMBRELL: I didn't think so. But I will ask each to introduce them-self to the public and these will be the committee members for the CAP group, Charter Authorizing Panel. So we'll start with you, Mr. Boardman. Please give us your name and title.

MR. BOARDMAN: Jim Boardman, Associate Commissioner for Research and Technology.

MR. HOY: John Hoy, Assistant Commissioner of Public School Accountability.

DR. WALTERS: Karen Walters, Assistant Commissioner of Human Resources and Licensure.

DR. WITONSKI: Megan Witonski, Assistant Commissioner of Learning Services.

1 MR. HERNANDEZ: Mike Hernandez, Assistant  
2 Commissioner for Fiscal and Administrative Services.

3 MS. COFFMAN: Deborah Coffman, Chief of Staff.

4 COMMISSIONER KIMBRELL: Thank you for that. And  
5 this is your team that will be looking -- and Ms.  
6 Perry and her group -- at these applications, and  
7 those applications and other charter issues that will  
8 come before this group. This group will be meeting  
9 -- I think we're going to look at those meeting  
10 dates. So we're looking forward to the work this  
11 panel will do in the near future around charters. So  
12 if there are no other comments or reports then we'll  
13 move to Report 2 and ask Ms. Perry to bring us up-to-  
14 date on the application cycles.

15 REPORT-2: UPDATE ON THE CURRENT CHARTER APPLICATION CYCLES

16 MS. PERRY: Yes, sir. I just wanted you to know  
17 where we are with both the open enrollment charter  
18 application cycle and the district conversion  
19 application cycle. There were 11 letters with intent  
20 to apply for open enrollment charter schools that  
21 arrived; all of them arrived without difficulty on  
22 the deadline of July 1. And representatives  
23 associated with 10 of the 11 letters attended a  
24 mandatory applicant workshop that was held in this  
25 room on July 15th. That means 10 will be the most

1 open enrollment applications that will be here for us  
2 to review. The applications, the open enrollment,  
3 are due to the Department of Ed. by 4:00 p.m., on  
4 Tuesday, September 3rd, the day after Labor Day.  
5 Also due at that same time are letters of intent to  
6 apply for district conversion charters, limited  
7 public charter schools, and we've already received  
8 one letter of intent from a district who wants to --  
9 has indicated they want to apply for a district  
10 conversion charter. And that ends my short report,  
11 unless you have any questions.

12 COMMISSIONER KIMBRELL: Questions from the panel  
13 in regards to the application cycle?

14 (A brief moment of silence)

15 MS. PERRY: Thank you.

16 COMMISSIONER KIMBRELL: Thank you, Ms. Perry.

17 A-1: ELECTION OF OFFICER: CHARTER AUTHORIZING PANEL

18 COMMISSIONER KIMBRELL: Okay. In the law we  
19 also have to, as a panel, elect officers to run the  
20 meetings. And in the law it gave the Commissioner of  
21 Education the opportunity to be a part of this panel  
22 -- and if so, they would chair the panel. And so  
23 since I've chosen to be a part of this panel I will  
24 chair it. But we need a vice-chair in those  
25 situations in which for some reason I may not be able

1 to attend the entire meeting or a meeting of the  
2 whole. So we'll take any nominations or suggestions  
3 for a vice-chair. Mr. Hoy, you're recognized.

4 MR. HOY: Dr. Witonski.

5 DR. WALTERS: Second.

6 COMMISSIONER KIMBRELL: Okay. We've got a  
7 motion and a second that Dr. Witonski would serve as  
8 vice-chair of the Charter Authorizing Panel. Any  
9 other discussion or nominations? If there's no  
10 further discussion or nominations, all those in favor  
11 of Dr. Witonski becoming the vice-chair of the  
12 Charter Authorizing Panel say aye.

13 (UNANIMOUS CHORUS OF AYES)

14 COMMISSIONER KIMBRELL: All those opposed?  
15 Congratulations, Dr. Witonski. I feel good about  
16 being gone now.

17 DR. WITONSKI: Awesome.

18 COMMISSIONER KIMBRELL: Okay. So Action Item A-  
19 1 is complete.

20 A-2: CONSIDERATION FOR APPROVAL: PROPOSED CHARTER AMENDMENT  
21 REQUEST FORM

22 COMMISSIONER KIMBRELL: We'll move to A-2. And,  
23 Ms. Perry, if you would, please come and present the  
24 Proposed Charter Amendment Request Form that you're  
25 bringing before this panel.

1 MS. PERRY: Yes. You have in your packet just a  
2 form that we propose would be standard at the front  
3 of any request for an amendment. First of all, you  
4 have the instructions for using it. But, basically,  
5 this would let the charter that wants to appear  
6 before you and ask for a change in its charter to  
7 state what they want right here, up-front. They are  
8 directed to be able to put whatever they need to  
9 support that request. But it would give us one piece  
10 of paper to look at uniformly and very quickly be  
11 able to see what they are asking when they submit  
12 this amendment request form. So that is where this  
13 came from. The Facilities Utilization Agreement is  
14 attached because it should be submitted when an  
15 amendment is submitted to relocate or to add a  
16 campus. So we've put that up here. We'd like your  
17 approval to get that out and to use it, to have it  
18 posted on our website.

19 COMMISSIONER KIMBRELL: Any questions of the  
20 Panel? Any legal issues around a public comment  
21 period or anything, Mr. Lasiter?

22 MR. LASITER: No, sir. It's not going to be a  
23 rule or anything of that nature. It's just a form  
24 that they'll be providing to us to make us aware of  
25 any kind of amendment request that they'll have.

1           COMMISSIONER KIMBRELL: Thank you. And then the  
2 amendment will come in the form -- in the actual form  
3 that was approved through the rules process.  
4 Correct?

5           MR. LASITER: I don't know that there was a  
6 specific form for the amendment but the amendment  
7 would be attached, I think, to this document.

8           COMMISSIONER KIMBRELL: Okay. So, Panel, you've  
9 had an opportunity to look at the amendment request  
10 form seeking information on changes in the amendment,  
11 so -- and the Facilities Utilization Agreement. Are  
12 there any questions of the Panel?

13          MR. HOY: I have one.

14          COMMISSIONER KIMBRELL: Yes. Go ahead, Mr. Hoy.

15          MR. HOY: I anticipate at some point someone is  
16 going to ask me why 31 [sic] days for the application  
17 getting in that's in the instructions, in the first  
18 paragraph. Is there a reason for the 35 days  
19 specific to the law or --

20          MS. PERRY: It is included in the charter rules  
21 that they submit that 35 days in advance. There have  
22 been occasions where someone didn't get in in the 35  
23 days. And the rule also says that they can request  
24 that the Commissioner waive the 35-day requirement,  
25 and we have had that occur before and the

1 Commissioner has waived that section of the rule  
2 before.

3 MR. HOY: Thank you.

4 COMMISSIONER KIMBRELL: Any other questions?  
5 Seeing no other questions, do I have a motion?

6 DR. WITONSKI: Motion.

7 COMMISSIONER KIMBRELL: Okay. Ms. -- Dr.  
8 Witonski made the motion.

9 MR. BOARDMAN: Second.

10 COMMISSIONER KIMBRELL: Second by Mr. Boardman.  
11 Any further discussion? All those in favor of the  
12 approval of the proposed -- or of the Charter  
13 Amendment Request Form say aye.

14 (UNANIMOUS CHORUS OF AYES)

15 COMMISSIONER KIMBRELL: All those opposed like  
16 sign? Okay.

17 A-3: CONSIDERATION FOR APPROVAL: 2013-2014 MEETING DATES

18 COMMISSIONER KIMBRELL: Ms. Perry, Action Item  
19 3, please.

20 MS. PERRY: The last action item is proposed  
21 meeting dates for this school year, 13-14, for the  
22 Charter Authorizing Panel, with all meetings proposed  
23 to take place in this room and to begin at 8:30. You  
24 have Tuesday and Wednesday, November 12 and 13, two  
25 days for that meeting because we could have -- as I

1 told you in a prior item, we may have as many as 10  
2 open enrollment applicants to come before you that  
3 day for their public hearing. If for some reason we  
4 didn't get as many handled in one day that can be  
5 changed. But you also may have some other charter  
6 issues coming before you that day, some amendment  
7 requests -- so any other charter business that could  
8 come in as well. So two days I'm asking you to block  
9 for that. Then, in January, Wednesday and Thursday  
10 -- again, that's the district conversion charters  
11 that will be involved in hearings at that point with  
12 your approval. And, again, we'll see if we really  
13 need two days when we see how many letters of intent  
14 we get by September 3. Wednesday, February 12 -- in  
15 February, renewal applications will come before you  
16 but there are only two charters that have contract  
17 end-dates of June 30, 2014, so we'll only have two.  
18 So I think one day will work even with other charter  
19 business there. And then Wednesday, April 16 and  
20 Wednesday, May 14 -- most of these Wednesdays are the  
21 day -- the Wednesday after the State Board meets on  
22 Monday.

23 COMMISSIONER KIMBRELL: Okay. And that time too  
24 is in case there is a request by the State Board to  
25 host a full hearing. Is that correct?

1 MS. PERRY: Well, the timing issue is the law  
2 requires that the Department notify any of the  
3 applicants for charter or any charter who's  
4 requesting an amendment within at least 14 days  
5 before the State Board meets. And if the applicant  
6 or existing charter or an affected school district  
7 wants to ask the State Board of Education to review  
8 the decision made by you, they will have time to get  
9 that request in before the next State Board meeting.  
10 Because the law says that these come and be on the  
11 State Board meetings -- the State Board's next  
12 agenda. Then, the State Board at that time would  
13 decide whether or not they will hear -- if they want  
14 to review your decision and if they do, it will go on  
15 the following State Board. So timing is critical to  
16 have enough time to get what we need in and get it  
17 posted for the State Board agenda should there be  
18 requests for appeals.

19 COMMISSIONER KIMBRELL: Very good. Okay.  
20 You've heard the explanation of the setting of these  
21 dates to, one, allow your schedules to be set aside  
22 so that your availability is there. I know you have  
23 lots of other issues and as we know, there are things  
24 that come up almost daily that we have to react to.  
25 But please block these dates on your calendar; be

1           sure that your staff understands that these dates are  
2           important dates for you as part of this panel to be  
3           able to be available. And also to allow our charter  
4           applicants and renewal applicants, current charters,  
5           to be able to set their dates so that they know and  
6           can prepare.

7                     What's wrong, Mr. Smith?

8                     MR. SCOTT SMITH: I've got a question on the  
9           dates, if I could ask?

10                    COMMISSIONER KIMBRELL: Sure.

11                    MR. SMITH: Would the State Board have a right  
12           to review the Panel's -- this board's authorizing  
13           decisions? If, for example, the open enrollments are  
14           not heard until November and then the State Board  
15           decides against to take one up I guess they could  
16           come to the State Board in December?

17                    COMMISSIONER KIMBRELL: December.

18                    MR. SMITH: And then would they hear it in  
19           December --

20                    COMMISSIONER KIMBRELL: Yes.

21                    MR. SMITH: -- or would it be January?

22                    COMMISSIONER KIMBRELL: No. They would hear it  
23           in December, is my understanding. Mr. Lasiter? That  
24           was my understanding of the way the law and the  
25           intent of the law was is that -- well, no. It's

1 after. It would actually be the next month because  
2 --

3 MR. SMITH: Correct.

4 MR. LASITER: They could have an emergency  
5 meeting if they wanted to, as well. We'd have to  
6 wait until another full month following that.

7 COMMISSIONER KIMBRELL: Yeah.

8 MR. SMITH: But assuming they didn't and they  
9 heard it on their regular schedule, it would be  
10 January. And so you're looking at possibly a charter  
11 not knowing until --

12 COMMISSIONER KIMBRELL: January.

13 MR. SMITH: Yeah, January. And so, some concern  
14 about the timing if they're trying to get the school  
15 in place. And it even gets worse for a conversion  
16 charter because they're behind the -- their timing  
17 schedule is behind the open enrollment. So I know  
18 the committee is not on the same schedule; y'all can  
19 meet whenever you want to convene the committee. I  
20 think the issues that we looked at on the front-end  
21 was you have to give enough time for the public  
22 hearings and you have to give enough time for a  
23 district to file in opposition. But we'd just ask  
24 this board to think about the timing of that, given  
25 the State Board piece of this, 'cause you might put

1           these charters well into next year. And if they're  
2           trying to open school by June then it may create a  
3           timing issue, at least the way we look -- we're  
4           thinking about it. So I just want to bring that to  
5           your attention.

6           COMMISSIONER KIMBRELL: I appreciate your  
7           comments. Mr. Lasiter, do you have any other  
8           comments?

9           MR. LASITER: There's also going to need to be  
10          time for maybe staff to review the applications when  
11          they come in, as well. I mean, I'm all for -- I  
12          think we should all be for getting this done as  
13          expeditiously as possible, certainly, for the  
14          charters that need to plan. We also need to have  
15          time in that schedule though to be able to adequately  
16          review the applications and get the information that  
17          this body and perhaps ultimately the State Board  
18          would need to make an informed decision.

19          COMMISSIONER KIMBRELL: So, if you would, Ms.  
20          Perry, walk us through the application timelines that  
21          are set within the law so we can -- the Panel can  
22          fully understand that timeframe.

23          MS. PERRY: Well, the applications, when they  
24          come into the Department -- typically, it's been  
25          August 31st that the open enrollment applications

1           come into the Department. When they get here -- this  
2           year, of course, it's the weekend and then Labor Day  
3           holiday; that's why it's Tuesday, September 3rd.  
4           When they come here, we look at them. We'll be the  
5           first group to look at them in the charter office to  
6           insure that the few things that had to be there are  
7           there and to insure that it's a substantially  
8           complete application. Then we will get them out and  
9           put them in a format. The Internal Review Committee  
10          -- and that's ADE staff folks from many of your areas  
11          who will come together -- hopefully will have  
12          reviewed the applications before we conduct a  
13          meeting. We have a meeting where we go through the  
14          applications and note all of our comments and  
15          concerns and evaluate the application based on the  
16          rubric. Then staff in the charter office gets the  
17          comments back to the applicant. We consider that  
18          piece "technical assistance," which the law requires  
19          us to provide. So we get that information back to  
20          the applicant. They have to have time to respond and  
21          come back and then the Internal Review Committee  
22          meets again and looks at the responses and re-  
23          evaluates using the rubric. Hopefully, things will  
24          have been approved by that point, even if they were  
25          very good to begin with. So those things take some

1 time, the coming and going, the back-and-forth there,  
2 for us to get that through and do that.

3 The district conversion follows the same  
4 process, coming in on Halloween, and then they go  
5 through the same kind of internal review with the  
6 internal -- the same committee that reviews the open  
7 enrollment before they will come to you for a  
8 hearing. So it is a rather lengthy process to get  
9 them looked at, as Mr. Lasiter has said, very  
10 carefully and thoroughly.

11 COMMISSIONER KIMBRELL: Does that include the  
12 possibility of an interview process, as we used to  
13 have with the charters, involving your staff and  
14 possibly some of the internal review?

15 MS. PERRY: We did not build in an interview  
16 process at all in the -- didn't reflect that in our  
17 rules that have gone before the State Board that have  
18 been approved for emergency adoption. It did not  
19 indicate that there would be an interview for the  
20 Internal Review Committee, although I'm not sure it  
21 even addresses the Internal Review Committee in our  
22 rules.

23 COMMISSIONER KIMBRELL: Right. Right.

24 MS. PERRY: That's just procedure. But, no --

25 COMMISSIONER KIMBRELL: But if a charter

1 applicant wanted to bring a couple of people and sit  
2 down with you and a couple of individuals from the  
3 internal -- to just talk about their misunderstanding  
4 of what the question is that was sent back or get  
5 more clarification, provide more clarification, then  
6 your staff and the internal staff is not opposed to  
7 having those kinds of meetings to continue that  
8 technical assistance?

9 MS. PERRY: That is correct. We will do  
10 technical assistance in person or over the phone to  
11 address the specific issues if there's some  
12 misunderstanding.

13 COMMISSIONER KIMBRELL: Well, I mean, but could  
14 they come visit?

15 MS. PERRY: Absolutely, they could. We are  
16 charged with providing the technical assistance.

17 COMMISSIONER KIMBRELL: Well, let me ask you  
18 this question then: if the applications are due  
19 August 31st, then you have the month of September for  
20 the charter school office to put all that together,  
21 to upload all the documents. Then the internal  
22 review team begins its work and then that feedback --  
23 is there anything in the rule or the law that  
24 delineates when the feedback has to be provided back?  
25 I mean, if we moved this -- let's say that -- taking

1           into consideration Mr. Smith's comments, if we moved  
2           this to October, following the State Board meeting,  
3           would that put a burden not only on your staff,  
4           internal review, but what about the charter  
5           applicants? I mean, would that cut down on their  
6           time?

7           MS. PERRY: It will cut down on their time.  
8           With it spread out to November, we would be able to  
9           give them a little longer time for responses, for  
10          responding. They have not had a great deal of time  
11          to respond in the past to the comments by staff  
12          because of the quick turnaround time we needed to get  
13          it back to the Internal Review Committee.

14          COMMISSIONER KIMBRELL: Okay. Do any of the  
15          other panel have questions, concerns or  
16          considerations?

17          MR. HOY: Just a question for clarification.  
18          I'm assuming that the reason why these timelines are  
19          important is in case we have a ruling, that we have  
20          as a charter review board, that the State Board wants  
21          to review. Now if they do not want to review I'm  
22          assuming then that we will not necessarily have these  
23          time issues. Is that an accurate statement?

24          MS. PERRY: That's right. If the State Board  
25          does not choose to review -- and remember, it's not

1 just the charter applicant who can ask you to review  
2 a decision; an affected district can ask you to  
3 review a decision -- excuse me -- ask the State Board  
4 to review a decision, as well. And so if the State  
5 Board -- if this happens in November and we get the  
6 request -- they'll have to make those requests very  
7 quickly too; we're going to have to be very organized  
8 and make sure folks know how to do those things so  
9 that we can turnaround and get that to the State  
10 Board meeting in December. And then if the Board  
11 chooses not to take up and review any decision that  
12 they're asked to review, that decision is final at  
13 that point. There's no other recourse.

14 COMMISSIONER KIMBRELL: Okay. Any other  
15 questions?

16 MR. BOARDMAN: Just a comment. It appears to  
17 me, just if my memory serves me correct, that a lot  
18 of times after we've had this first preliminary --  
19 you know -- after review, there's been a lot of work  
20 that the charters have had to do to meet even  
21 necessary requirements. And it appears to me that  
22 it's important to have enough time for them in the  
23 beginning and after they get our comments back, the  
24 comments back, to have time to make those  
25 corrections. There are almost always considerable

1 changes that have to be made in an application after  
2 they go through the review process.

3 COMMISSIONER KIMBRELL: Other comments? Mr.  
4 Smith, I appreciate your comments. I think probably  
5 what I would suggest that we do is move forward with  
6 these dates and let the State Board know that if  
7 there are either conversion or open enrollment  
8 reviews requested that they consider hosting those in  
9 a very timely manner, at the next State Board meeting  
10 or in a special meeting to address just that issue so  
11 that we can minimize that time, if they so choose to  
12 do that. We'll see how that works during this  
13 process, as we don't know -- you know -- this is new  
14 to us, the process in which we've been working. I do  
15 know what the timing issues were previously with  
16 trying to get information and many times not getting  
17 the information from the applicant until just -- many  
18 times brought into the meetings when we did those  
19 reviews. So my suggestion is we stick with this  
20 timeline and we work closely with the State Board,  
21 that if there is one of those charter applications  
22 that we have either authorized, not authorized,  
23 revoked, et cetera, and the State Board votes to have  
24 a full hearing, that we ask that they do that in a  
25 timely manner in order to give these applicants an

1 opportunity, if they are granted the charter, to get  
2 their school up and running. That would be my  
3 suggestion. Dr. Walters.

4 DR. WALTERS: Dr. Kimbrell, the November dates  
5 -- I believe for the past two years the November  
6 State Board meeting has fallen on Veteran's Day and  
7 we have moved it. Is that going to be an issue? Or  
8 are we going to go ahead and have the State Board  
9 meeting on Veteran's Day?

10 COMMISSIONER KIMBRELL: No. The Board has  
11 actually voted to have that a week early. The State  
12 Board will actually meet on November 4th.

13 DR. WALTERS: So it won't affect --

14 COMMISSIONER KIMBRELL: It shouldn't have an  
15 affect on these dates then. I mean, that's our call.  
16 Ms. Perry?

17 MS. PERRY: We've counted the days. There's  
18 enough timeline to meet the timelines required by  
19 law, if you meet on the 15th and 16th, and for us to  
20 get things -- give the 14 days and the written  
21 decisions, to get it back, and get on the December  
22 board meeting.

23 COMMISSIONER KIMBRELL: Any other questions? I  
24 mean, I'm open to anything that you want to do as a  
25 panel. I do know the constraints and the concerns

1 that are brought back by the staff as we implement a  
2 whole new process for authorizing charters, but I do  
3 know the State Board has actually moved that date.  
4 Any other concerns or questions? I mean, I'm not  
5 opposed to any changes that you see that need to be  
6 made. If not, I'd entertain a motion.

7 MR. HERNANDEZ: I make a motion to adopt the  
8 meeting dates for 2013-14 here.

9 COMMISSIONER KIMBRELL: Okay. I have a motion.

10 DR. WALTERS: Second.

11 COMMISSIONER KIMBRELL: Second by Dr. Walters.  
12 Any further discussion? If not, all those in favor  
13 of adoption of these Charter Authorizing Panel dates  
14 say aye.

15 (UNANIMOUS CHORUS OF AYES)

16 COMMISSIONER KIMBRELL: All those opposed like  
17 sign? Thank you. Thank you. And, Panel, that  
18 completes our agenda. Are there other issues or  
19 concerns that need to be brought before the Panel at  
20 this time? If not, we'll look forward to our first  
21 review in November. If not, we're adjourned.

22

23 (The meeting was adjourned at 8:55 a.m.)

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EXHIBIT ONE (1)

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

EXHIBIT TWO (2)



[	Agreement (2) 7:13;8:11	4:23 assuming (3) 13:8;18:18,22	3:16,18,18;9:9,10; 19:16	16;15:5,16;16:25;17:20; 18:4,20;19:1;20:21;21:1; 22:13
[sic] (1) 8:16	ahead (2) 8:14;21:8	attached (2) 7:14;8:7	Board's (2) 11:11;12:12	charters (10) 4:11;5:6;10:10,16; 12:4;14:1,14;16:13; 19:20;22:2
A	allow (2) 11:21;12:3	attend (1) 6:1	body (1) 14:17	Chief (1) 4:3
A- (1) 6:18	almost (2) 11:24;19:25	attended (1) 4:23	both (1) 4:17	choose (2) 18:25;20:11
A-1 (1) 5:17	although (1) 16:20	attention (1) 14:5	brief (1) 5:14	chooses (1) 19:11
A-2 (2) 6:20,22	always (1) 19:25	August (2) 14:25;17:19	bring (3) 4:13;14:4;17:1	CHORUS (3) 6:13;9:14;22:15
A-3 (1) 9:17	AMENDMENT (14) 6:20,24;7:3,12,15,25; 8:2,6,6,9,10;9:13;10:6; 11:4	authorized (2) 20:22,22	bringing (1) 6:25	chosen (1) 5:23
able (7) 5:25;7:8,11;12:3,5; 14:15;18:8	anticipate (1) 8:15	Authorizing (10) 3:3,9,15;5:17;6:8,12; 9:22;12:12;22:2,13	brought (3) 20:18;22:1,19	clarification (3) 17:5,5;18:17
Absolutely (1) 17:15	appeals (1) 11:18	availability (1) 11:22	build (1) 16:15	closely (1) 20:20
Accountability (1) 3:21	appear (1) 7:5	available (1) 12:3	burden (1) 18:3	business (2) 10:7,19
accurate (1) 18:23	appears (2) 19:16,21	aware (1) 7:24	C	Coffman (2) 4:3,3
Act (1) 3:4	applicant (7) 4:24;11:5;15:17,20; 17:1;19:1;20:17	Awesome (1) 6:17		coming (3) 10:6;16:1,4
Action (3) 6:18;9:18,20	applicants (6) 10:2;11:3;12:4,4;18:5; 20:25	aye (3) 6:12;9:13;22:14	calendar (1) 11:25	comment (2) 7:20;19:16
actual (1) 8:2	application (10) 4:14,15,18,19;5:13; 8:16;14:20;15:8,15;20:1	AYES (3) 6:13;9:14;22:15	call (2) 3:6;21:15	comments (11) 4:12;14:7,8;15:14,17; 18:1,11;19:23,24;20:3,4
actually (4) 13:1;21:11,12;22:3	applications (13) 4:6,7;5:1,2;10:15; 14:10,16,23,25;15:12,14; 17:18;20:21	B	came (1) 7:13	COMMISSIONER (52) 3:2,5,12,19,20,23,25; 4:2,4;5:12,16,18,20;6:6, 14,18,22;7:19;8:1,8,14, 24;9:1,4,7,10,15,18; 10:23;11:19;12:10,17,20, 22;13:7,12;14:6,19; 16:11,23,25;17:13,17; 18:14;19:14;20:3;21:10, 14,23;22:9,11,16
add (1) 7:15	apply (3) 4:20;5:6,9		back (10) 15:17,19,21;17:4,24; 18:13;19:23,24;21:21; 22:1	campus (1) 7:16
address (2) 17:11;20:10	appreciate (2) 14:6;20:4	back-and-forth (1) 16:1	can (10) 8:23;10:4;12:6;13:18; 14:21,21;19:1,2,9;20:11	complete (2) 6:19;15:8
addresses (1) 16:21	APPROVAL (5) 6:20;7:17;9:12,17; 10:12	based (1) 15:15	CAP (1) 3:14	completes (1) 22:18
ADE (1) 15:10	approved (3) 8:3;15:24;16:18	basically (1) 7:4	carefully (1) 16:10	concern (1) 13:13
adequately (1) 14:15	April (1) 10:19	becoming (1) 6:11	case (2) 10:24;18:19	concerns (5) 15:15;18:15;21:25; 22:4,19
adjourned (2) 22:21,23	areas (1) 15:10	begin (2) 9:23;15:25	cause (1) 13:25	conduct (1) 15:12
Administrative (1) 4:2	arrive (2) 4:21,21	beginning (1) 19:23	certainly (1) 14:13	Congratulatory (1) 6:15
adopt (1) 22:7	aside (1) 11:21	begins (1) 17:22	chair (2) 5:22,24	considerable (1) 19:25
adoption (2) 16:18;22:13	assist (4) 15:18;17:8,10,16	behind (2) 13:16,17	change (1) 7:6	CONSIDERATION (3) 6:20;9:17;18:1
advance (1) 8:21	Assistant (4) 3:20,22,24;4:1	block (2) 10:8;11:25	changed (1) 10:5	considerations (1)
affect (2) 21:13,15	Associate (1) 3:18	Board (34) 10:21,24;11:5,7,9,11, 12,15,17;12:11,14,16; 13:24,25;14:17;16:17; 18:2,20,20,24;19:3,5,10, 10;20:6,9,20,23;21:6,8, 10,12,22;22:3	changes (3) 8:10;20:1;22:5	
affected (2) 11:6;19:2	associated (1)	Boardman (6)	charged (1) 17:16	
again (3) 10:10,12;15:22			Charter (38) 3:3,9,15;4:7,15,17,20; 5:7,10,17;6:8,12,20,24; 7:5,6,8;20:9;12,22;10:5, 7,18;11:3,3,6;12:3;13:10,	
against (1) 12:15				
agenda (4) 3:7;11:12,17;22:18				

<p>18:16 <b>constraints (1)</b> 21:25 <b>continue (1)</b> 17:7 <b>contract (1)</b> 10:16 <b>convene (1)</b> 13:19 <b>conversion (7)</b> 4:18;5:6,10;10:10; 13:15;16:3;20:7 <b>corrections (1)</b> 19:25 <b>counted (1)</b> 21:17 <b>couple (2)</b> 17:1,2 <b>course (1)</b> 15:2 <b>create (1)</b> 14:2 <b>critical (1)</b> 11:15 <b>CURRENT (2)</b> 4:15;12:4 <b>cut (2)</b> 18:5,7 <b>cycle (3)</b> 4:18,19;5:13 <b>cycles (2)</b> 4:14,15</p>	<p>11:8,14;14:18;19:2,3,4, 11,12 <b>decisions (2)</b> 12:13;21:21 <b>delineates (1)</b> 17:24 <b>Department (4)</b> 5:3;11:2;14:24;15:1 <b>difficulty (1)</b> 4:21 <b>directed (1)</b> 7:8 <b>discussion (4)</b> 6:9,10;9:11;22:12 <b>district (9)</b> 4:18;5:6,8,9;10:10; 11:6;13:23;16:3;19:2 <b>document (1)</b> 8:7 <b>documents (1)</b> 17:21 <b>done (1)</b> 14:12 <b>down (3)</b> 17:2;18:5,7 <b>DR (16)</b> 3:22,24;6:4,5,7,11,15, 17:9;6:7;21:3,4,4,13; 22:10,11 <b>due (3)</b> 5:3,5;17:18 <b>during (1)</b> 20:12</p>	<p>22:6 <b>entire (1)</b> 6:1 <b>et (1)</b> 20:23 <b>evaluate (1)</b> 15:15 <b>evaluates (1)</b> 15:23 <b>even (5)</b> 10:18;13:15;15:24; 16:21;19:20 <b>example (1)</b> 12:13 <b>exception (1)</b> 3:8 <b>excuse (1)</b> 19:3 <b>EXHIBIT (2)</b> 23:25;24:25 <b>existing (1)</b> 11:6 <b>expeditiously (1)</b> 14:13 <b>explanation (1)</b> 11:20</p>	<p><b>forward (3)</b> 4:10;20:5;22:20 <b>front (1)</b> 7:2 <b>front-end (1)</b> 13:20 <b>full (3)</b> 10:25;13:6;20:24 <b>fully (1)</b> 14:22 <b>further (3)</b> 6:10;9:11;22:12 <b>future (1)</b> 4:11</p>	<p>20:8 <b>HOY (9)</b> 3:20,20;6:3,4;8:13,14, 15;9:3;18:17 <b>Human (1)</b> 3:23</p>
			<b>G</b>	<b>I</b>
		<b>F</b>	<p><b>gave (1)</b> 5:20 <b>gets (2)</b> 13:15;15:16 <b>given (1)</b> 13:24 <b>good (3)</b> 6:15;11:19;15:25 <b>granted (1)</b> 21:1 <b>great (1)</b> 18:10 <b>group (5)</b> 3:15;4:6,8,8;15:5 <b>guess (3)</b> 3:2,8;12:15</p>	<p><b>implement (1)</b> 22:1 <b>important (3)</b> 12:2;18:19;19:22 <b>include (1)</b> 16:11 <b>included (1)</b> 8:20 <b>indicate (1)</b> 16:19 <b>indicated (1)</b> 5:9 <b>individuals (1)</b> 17:2 <b>information (5)</b> 8:10;14:16;15:19; 20:16,17 <b>informed (1)</b> 14:18 <b>instructions (2)</b> 7:4;8:17 <b>insure (2)</b> 15:6,7 <b>intent (5)</b> 4:19;5:5,8;10:13;12:25 <b>Internal (12)</b> 15:9,21;16:5,6,14,20, 21;17:3,6,21;18:4,13 <b>interview (3)</b> 16:12,15,19 <b>into (5)</b> 14:1,24;15:1;18:1; 20:18 <b>introduce (1)</b> 3:13 <b>involved (1)</b> 10:11 <b>involving (1)</b> 16:13 <b>issue (4)</b> 11:1;14:3;20:10;21:7 <b>issues (9)</b> 4:7;7:20;10:6;11:23; 13:20;17:11;18:23; 20:15;22:18 <b>Item (4)</b> 6:18;9:18,20;10:1</p>
<b>D</b>	<b>E</b>	<p><b>Facilities (2)</b> 7:13;8:11 <b>fallen (1)</b> 21:6 <b>favor (3)</b> 6:10;9:11;22:12 <b>February (2)</b> 10:14,15 <b>feedback (2)</b> 17:22,24 <b>feel (1)</b> 6:15 <b>few (1)</b> 15:6 <b>file (1)</b> 13:23 <b>final (1)</b> 19:12 <b>first (7)</b> 3:3,6;7:3;8:17;15:5; 19:18;22:20 <b>Fiscal (1)</b> 4:2 <b>folks (2)</b> 15:10;19:8 <b>following (3)</b> 11:15;13:6;18:2 <b>follows (1)</b> 16:3 <b>FORM (10)</b> 6:21,24;7:2,12,23;8:2, 2,6,10;9:13 <b>format (1)</b> 15:9</p>	<b>H</b>	
<p><b>daily (1)</b> 11:24 <b>date (2)</b> 4:14;22:3 <b>dates (14)</b> 4:10;9:17,21;11:21,25; 12:1,2,5,9;20:6;21:4,15; 22:8,13 <b>day (10)</b> 5:4,4;10:3,4,6,18,21; 15:2;21:6,9 <b>days (10)</b> 8:16,18,21,23;9:25; 10:8,13;11:4;21:17,20 <b>deadline (1)</b> 4:22 <b>deal (1)</b> 18:10 <b>Deborah (1)</b> 4:3 <b>December (6)</b> 12:16,17,19,23;19:10; 21:21 <b>decide (1)</b> 11:13 <b>decides (1)</b> 12:15 <b>decision (8)</b></p>	<p><b>early (1)</b> 21:11 <b>Ed (1)</b> 5:3 <b>Education (3)</b> 3:5;5:21;11:7 <b>either (2)</b> 20:7,22 <b>elect (1)</b> 5:19 <b>ELECTION (1)</b> 5:17 <b>emergency (2)</b> 13:4;16:18 <b>end-dates (1)</b> 10:17 <b>ends (1)</b> 5:10 <b>enough (5)</b> 11:16;13:21,22;19:22; 21:18 <b>enrollment (9)</b> 4:17,20;5:1,2;10:2; 13:17;14:25;16:7;20:7 <b>enrollments (1)</b> 12:13 <b>entertain (1)</b></p>			<b>J</b>
			<p><b>Halloween (1)</b> 16:4 <b>handled (1)</b> 10:4 <b>happens (1)</b> 19:5 <b>head (1)</b> 3:11 <b>hear (3)</b> 11:13;12:18,22 <b>heard (3)</b> 11:20;12:14;13:9 <b>hearing (4)</b> 10:3,25;16:8;20:24 <b>hearings (2)</b> 10:11;13:22 <b>held (1)</b> 4:24 <b>HERNANDEZ (3)</b> 4:1,1;22:7 <b>holiday (1)</b> 15:3 <b>hopefully (2)</b> 15:11,23 <b>host (1)</b> 10:25 <b>hosting (1)</b></p>	<p><b>January (5)</b> 10:9;12:21;13:10,12,13 <b>Jim (1)</b> 3:18</p>

<p><b>John (1)</b> 3:20 <b>July (2)</b> 4:22,25 <b>June (2)</b> 10:17;14:2</p>	<p><b>looked (2)</b> 13:20;16:9 <b>looking (3)</b> 4:5,10;13:10 <b>looks (1)</b> 15:22</p>	<p>17:5,5 <b>most (2)</b> 4:25;10:20 <b>motion (7)</b> 6:7;9:5,6,8;22:6,7,9 <b>move (3)</b> 4:13;6:22;20:5 <b>moved (4)</b> 17:25;18:1;21:7;22:3</p>	<p><b>open (12)</b> 4:17,20;5:1,2;10:2; 12:13;13:17;14:2,25; 16:6;20:7;21:24 <b>opportunity (3)</b> 5:21;8:9;21:1 <b>opposed (5)</b> 6:14;9:15;17:6;22:5,16 <b>opposition (1)</b> 13:23 <b>order (1)</b> 20:25 <b>organized (1)</b> 19:7 <b>out (3)</b> 7:17;15:8;18:8 <b>over (1)</b> 17:10</p>	<p>5:3 <b>point (4)</b> 8:15;10:11;15:24; 19:13 <b>possibility (1)</b> 16:12 <b>possible (1)</b> 14:13 <b>possibly (2)</b> 13:10;16:14 <b>posted (2)</b> 7:18;11:17 <b>preliminary (1)</b> 19:18 <b>prepare (1)</b> 12:6 <b>present (1)</b> 6:23 <b>previously (1)</b> 20:15 <b>prior (1)</b> 10:1 <b>probably (1)</b> 20:4 <b>procedure (1)</b> 16:24 <b>process (9)</b> 8:3;16:4,8,12,16;20:2, 13,14;22:2 <b>propose (1)</b> 7:2 <b>PROPOSED (5)</b> 6:20,24;9:12,20,22 <b>provide (2)</b> 15:19;17:5 <b>provided (1)</b> 17:24 <b>providing (2)</b> 7:24;17:16 <b>public (6)</b> 3:13,21;5:7;7:20;10:3; 13:21 <b>put (6)</b> 7:8,16;13:25;15:9; 17:20;18:3</p>
<p style="text-align: center;"><b>K</b></p>	<p><b>lot (2)</b> 19:17,19 <b>lots (1)</b> 11:23</p>	<p style="text-align: center;"><b>N</b></p>	<p style="text-align: center;"><b>P</b></p>	
<p><b>Karen (1)</b> 3:22 <b>KIMBRELL (45)</b> 3:2,4,12;4:4,5;12,16, 18;6:6,14,18,22;7:19;8:1, 8,14;9:4,7,10,15,18; 10:23;11:19;12:10,17,20, 22;13:7,12;14:6,19; 16:11,23,25;17:13,17; 18:14;19:14;20:3;21:4, 10,14,23;22:9,11,16 <b>kind (2)</b> 7:25;16:5 <b>kinds (1)</b> 17:7 <b>knowing (1)</b> 13:11</p>	<p style="text-align: center;"><b>M</b></p> <p><b>mandatory (1)</b> 4:24 <b>manner (2)</b> 20:9,25 <b>many (6)</b> 10:1,4,13;15:10;20:16, 17 <b>may (5)</b> 5:25;10:1,5,20;14:2 <b>maybe (1)</b> 14:10 <b>mean (7)</b> 14:11;17:13,25;18:5; 21:15,24;22:4 <b>means (1)</b> 4:25 <b>meet (5)</b> 13:19;19:20;21:12,18, 19 <b>meeting (22)</b> 3:3,6;4:8,9;6:1,1;9:17, 21,25;11:9;13:5;15:13, 13;18:2;19:10;20:9,10; 21:6,9,22;22:8,23 <b>meetings (5)</b> 5:20;9:22;11:11;17:7; 20:18 <b>meets (3)</b> 10:21;11:5;15:22 <b>Megan (1)</b> 3:24 <b>members (1)</b> 3:14 <b>memory (1)</b> 19:17 <b>might (1)</b> 13:25 <b>Mike (1)</b> 4:1 <b>minimize (1)</b> 20:11 <b>misunderstanding (2)</b> 17:3,12 <b>moment (1)</b> 5:14 <b>Monday (1)</b> 10:22 <b>month (3)</b> 13:1,6;17:19 <b>more (2)</b></p>	<p><b>name (3)</b> 3:4,9,16 <b>nature (1)</b> 7:23 <b>near (1)</b> 4:11 <b>necessarily (1)</b> 18:22 <b>necessary (1)</b> 19:21 <b>need (11)</b> 3:9;5:24;7:8;10:13; 11:16;14:9,14,14,18; 22:5,19 <b>needed (1)</b> 18:12 <b>new (2)</b> 20:13;22:2 <b>next (5)</b> 11:9,11;13:1;14:1;20:9 <b>nominations (3)</b> 6:2,9,10 <b>note (1)</b> 15:14 <b>notify (1)</b> 11:2 <b>November (8)</b> 9:24;12:14;18:8;19:5; 21:4,5,12;22:21</p>	<p><b>packet (1)</b> 7:1 <b>Panel (24)</b> 3:3,10,15;4:11;5:12,17, 19,21,22,23;6:8,12,25; 7:20;8:8,12;9:22;12:2; 14:21;18:15;21:25;22:13, 17,19 <b>Panel's (1)</b> 12:12 <b>paper (1)</b> 7:10 <b>paragraph (1)</b> 8:18 <b>part (3)</b> 5:21,23;12:2 <b>past (2)</b> 18:11;21:5 <b>people (1)</b> 17:1 <b>perhaps (1)</b> 14:17 <b>period (1)</b> 7:21 <b>Perry (21)</b> 4:6,13,16;5:15,16;6:23; 7:1;8:20;9:18,20;11:1; 14:20,23;16:15,24;17:9, 15;18:7,24;21:16,17 <b>person (1)</b> 17:10 <b>phone (1)</b> 17:10 <b>piece (3)</b> 7:9;13:25;15:18 <b>place (2)</b> 9:23;13:15 <b>plan (1)</b> 14:14 <b>Please (4)</b> 3:16;6:23;9:19;11:25 <b>pm (1)</b></p>	
<p style="text-align: center;"><b>L</b></p>		<p style="text-align: center;"><b>O</b></p>		<p style="text-align: center;"><b>Q</b></p>
<p><b>Labor (2)</b> 5:4;15:2 <b>Lasiter (10)</b> 3:8,11;7:21,22;8:5; 12:23;13:4;14:7,9;16:9 <b>last (1)</b> 9:20 <b>law (12)</b> 3:5;5:18,20;8:19;11:1, 10;12:24,25;14:21;15:18; 17:23;21:19 <b>Learning (1)</b> 3:25 <b>least (2)</b> 11:4;14:3 <b>legal (1)</b> 7:20 <b>lengthy (1)</b> 16:8 <b>letter (1)</b> 5:8 <b>letters (4)</b> 4:19,23;5:5;10:13 <b>Licensure (1)</b> 3:23 <b>limited (1)</b> 5:6 <b>little (1)</b> 18:9 <b>longer (1)</b> 18:9 <b>look (7)</b> 4:9;7:10;8:9;14:3;15:4, 5;22:20</p>		<p><b>occasions (1)</b> 8:22 <b>occur (1)</b> 8:25 <b>October (1)</b> 18:2 <b>office (3)</b> 15:5,16;17:20 <b>OFFICER (1)</b> 5:17 <b>officers (1)</b> 5:19 <b>officially (1)</b> 3:9 <b>one (9)</b> 5:8;7:9;8:13;10:4,18; 11:21;12:15;20:21;23:25 <b>only (3)</b> 10:16,17;18:3</p>		<p><b>quick (1)</b> 18:12 <b>quickly (2)</b> 7:10;19:7</p> <p style="text-align: center;"><b>R</b></p> <p><b>rather (1)</b> 16:8 <b>re- (1)</b> 15:22 <b>react (1)</b> 11:24 <b>really (1)</b> 10:12</p>

<p><b>reason (4)</b> 5:25;8:18;10:3;18:18</p> <p><b>received (1)</b> 5:7</p> <p><b>recognized (1)</b> 6:3</p> <p><b>recourse (1)</b> 19:13</p> <p><b>reflect (1)</b> 16:16</p> <p><b>regards (1)</b> 5:13</p> <p><b>regular (1)</b> 13:9</p> <p><b>relocate (1)</b> 7:15</p> <p><b>remember (1)</b> 18:25</p> <p><b>renewal (2)</b> 10:15;12:4</p> <p><b>report (3)</b> 3:8;4:13;5:10</p> <p><b>REPORT-2 (1)</b> 4:15</p> <p><b>reports (1)</b> 4:12</p> <p><b>representatives (1)</b> 4:22</p> <p><b>REQUEST (12)</b> 6:21,24;7:3,9,12,25; 8:9,23;9:13;10:24;11:9; 19:6</p> <p><b>requested (1)</b> 20:8</p> <p><b>requesting (1)</b> 11:4</p> <p><b>requests (3)</b> 10:7;11:18;19:6</p> <p><b>required (2)</b> 3:6;21:18</p> <p><b>requirement (1)</b> 8:24</p> <p><b>requirements (1)</b> 19:21</p> <p><b>requires (2)</b> 11:2;15:18</p> <p><b>Research (1)</b> 3:19</p> <p><b>Resources (1)</b> 3:23</p> <p><b>respond (2)</b> 15:20;18:11</p> <p><b>responding (1)</b> 18:10</p> <p><b>responses (2)</b> 15:22;18:9</p> <p><b>review (27)</b> 5:2;11:7,14;12:12; 14:10,16;15:9,21;16:5, 14,20,21;17:22;18:4,13, 20,21,21,25;19:1,3,4,11, 12,19;20:2;22:21</p> <p><b>reviewed (1)</b></p>	<p>15:12</p> <p><b>reviews (3)</b> 16:6;20:8,19</p> <p><b>revoked (1)</b> 20:23</p> <p><b>right (5)</b> 7:7;12:11;16:23,23; 18:24</p> <p><b>rolling (1)</b> 3:7</p> <p><b>room (2)</b> 4:25;9:23</p> <p><b>rubric (2)</b> 15:16,23</p> <p><b>rule (4)</b> 7:23;8:23;9:1;17:23</p> <p><b>rules (4)</b> 8:3,20;16:17,22</p> <p><b>ruling (1)</b> 18:19</p> <p><b>run (1)</b> 5:19</p> <p><b>running (1)</b> 21:2</p> <p style="text-align: center;"><b>S</b></p> <p><b>same (5)</b> 5:5;13:18;16:3,5,6</p> <p><b>schedule (4)</b> 13:9,17,18;14:15</p> <p><b>schedules (1)</b> 11:21</p> <p><b>School (7)</b> 3:21;9:21;11:6;13:14; 14:2;17:20;21:2</p> <p><b>schools (2)</b> 4:20;5:7</p> <p><b>SCOTT (1)</b> 12:8</p> <p><b>Second (6)</b> 6:5,7;9:9,10;22:10,11</p> <p><b>section (1)</b> 9:1</p> <p><b>Seeing (1)</b> 9:5</p> <p><b>seeking (1)</b> 8:10</p> <p><b>sent (1)</b> 17:4</p> <p><b>September (4)</b> 5:4;10:14;15:3;17:19</p> <p><b>serve (1)</b> 6:7</p> <p><b>serves (1)</b> 19:17</p> <p><b>Services (2)</b> 3:25;4:2</p> <p><b>set (3)</b> 11:21;12:5;14:21</p> <p><b>setting (1)</b> 11:20</p> <p><b>Shaking (1)</b></p>	<p>3:11</p> <p><b>short (1)</b> 5:10</p> <p><b>side (2)</b> 3:11,11</p> <p><b>sign (2)</b> 9:16;22:17</p> <p><b>silence (1)</b> 5:14</p> <p><b>sit (1)</b> 17:1</p> <p><b>situations (1)</b> 5:25</p> <p><b>Smith (9)</b> 12:7,8,11,18,21;13:3,8, 13;20:4</p> <p><b>Smith's (1)</b> 18:1</p> <p><b>someone (2)</b> 8:15,22</p> <p><b>special (1)</b> 20:10</p> <p><b>specific (3)</b> 8:6,19;17:11</p> <p><b>spread (1)</b> 18:8</p> <p><b>Staff (11)</b> 4:3;12:1;14:10;15:10, 16;16:13;17:6,6;18:3,11; 22:1</p> <p><b>standard (1)</b> 7:2</p> <p><b>start (1)</b> 3:15</p> <p><b>state (31)</b> 7:7;10:21,24;11:5,7,9, 11,11,12,15,17;12:11,14, 16;13:25;14:17;16:17; 18:2,20,24;19:3,4,9;20:6, 9,20,23;21:6,8,11;22:3</p> <p><b>statement (1)</b> 18:23</p> <p><b>stick (1)</b> 20:19</p> <p><b>submit (2)</b> 7:11;8:21</p> <p><b>submitted (2)</b> 7:14,15</p> <p><b>substantially (1)</b> 15:7</p> <p><b>suggest (1)</b> 20:5</p> <p><b>suggestion (2)</b> 20:19;21:3</p> <p><b>suggestions (1)</b> 6:2</p> <p><b>support (1)</b> 7:9</p> <p><b>sure (4)</b> 12:1,10;16:20;19:8</p> <p style="text-align: center;"><b>T</b></p>	<p><b>talk (1)</b> 17:3</p> <p><b>team (2)</b> 4:5;17:22</p> <p><b>technical (4)</b> 15:18;17:8,10,16</p> <p><b>Technology (1)</b> 3:19</p> <p><b>them-self (1)</b> 3:13</p> <p><b>thinking (1)</b> 14:4</p> <p><b>thoroughly (1)</b> 16:10</p> <p><b>though (1)</b> 14:15</p> <p><b>Thursday (1)</b> 10:9</p> <p><b>timeframe (1)</b> 14:22</p> <p><b>timeline (2)</b> 20:20;21:18</p> <p><b>timelines (3)</b> 14:20;18:18;21:18</p> <p><b>timely (2)</b> 20:9,25</p> <p><b>times (3)</b> 19:18;20:16,18</p> <p><b>timing (7)</b> 11:1,15;13:14,16,24; 14:3;20:15</p> <p><b>title (1)</b> 3:17</p> <p><b>together (2)</b> 15:11;17:20</p> <p><b>told (1)</b> 10:1</p> <p><b>Tom (1)</b> 3:4</p> <p><b>trying (3)</b> 13:14;14:2;20:16</p> <p><b>Tuesday (3)</b> 5:4;9:24;15:3</p> <p><b>turnaround (2)</b> 18:12;19:9</p> <p><b>two (7)</b> 9:24;10:8,13,16,17; 21:5;24:25</p> <p><b>typically (1)</b> 14:24</p> <p style="text-align: center;"><b>U</b></p> <p><b>ultimately (1)</b> 14:17</p> <p><b>UNANIMOUS (3)</b> 6:13;9:14;22:15</p> <p><b>under (1)</b> 3:4</p> <p><b>understands (1)</b> 12:1</p> <p><b>uniformly (1)</b> 7:10</p>	<p><b>unless (1)</b> 5:11</p> <p><b>up (5)</b> 7:16;11:24;12:15; 19:11;21:2</p> <p><b>UPDATE (1)</b> 4:15</p> <p><b>up-front (1)</b> 7:7</p> <p><b>upload (1)</b> 17:21</p> <p><b>up-to- (1)</b> 4:13</p> <p><b>use (1)</b> 7:17</p> <p><b>used (1)</b> 16:12</p> <p><b>using (2)</b> 7:4;15:23</p> <p><b>Utilization (2)</b> 7:13;8:11</p> <hr/> <p style="text-align: center;"><b>V</b></p> <hr/> <p><b>Veteran's (2)</b> 21:6,9</p> <p><b>vice-chair (4)</b> 5:24;6:3,8,11</p> <p><b>visit (1)</b> 17:14</p> <p><b>voted (1)</b> 21:11</p> <p><b>votes (1)</b> 20:23</p> <hr/> <p style="text-align: center;"><b>W</b></p> <hr/> <p><b>wait (1)</b> 13:6</p> <p><b>waive (1)</b> 8:24</p> <p><b>waived (1)</b> 9:1</p> <p><b>walk (1)</b> 14:20</p> <p><b>WALTERS (8)</b> 3:22,22;6:5;21:3,4,13; 22:10,11</p> <p><b>wants (4)</b> 5:8;7:5;11:7;18:20</p> <p><b>way (2)</b> 12:24;14:3</p> <p><b>website (1)</b> 7:18</p> <p><b>Wednesday (6)</b> 9:24;10:9,14,19,20,21</p> <p><b>Wednesdays (1)</b> 10:20</p> <p><b>week (1)</b> 21:11</p> <p><b>weekend (1)</b> 15:2</p> <p><b>Welcome (1)</b></p>
---	---	--	--	--

3:2			
<b>What's (1)</b> 12:7	<b>2</b>		
<b>whenever (1)</b> 13:19	<b>2 (2)</b> 4:13;24:25		
<b>whole (2)</b> 6:2;22:2	<b>2013-14 (1)</b> 22:8		
<b>who's (1)</b> 11:3	<b>2013-2014 (1)</b> 9:17		
<b>within (2)</b> 11:4;14:21	<b>2014 (1)</b> 10:17		
<b>without (1)</b> 4:21	<b>3</b>		
<b>WITONSKI (9)</b> 3:24,24;6:4,7,11,15,17; 9:6,8	<b>3 (2)</b> 9:19;10:14		
<b>work (6)</b> 3:4;4:10;10:18;17:22; 19:19;20:20	<b>30 (1)</b> 10:17		
<b>working (1)</b> 20:14	<b>31 (1)</b> 8:16		
<b>works (1)</b> 20:12	<b>31st (2)</b> 14:25;17:19		
<b>workshop (1)</b> 4:24	<b>35 (3)</b> 8:18,21,22		
<b>worse (1)</b> 13:15	<b>35-day (1)</b> 8:24		
<b>written (1)</b> 21:20	<b>3rd (2)</b> 5:4;15:3		
<b>wrong (1)</b> 12:7	<b>4</b>		
<b>Y</b>	<b>4:00 (1)</b> 5:3		
<b>y'all (1)</b> 13:18	<b>4th (1)</b> 21:12		
<b>year (3)</b> 9:21;14:1;15:2	<b>5</b>		
<b>years (1)</b> 21:5	<b>509 (1)</b> 3:4		
<b>1</b>	<b>8</b>		
<b>1 (3)</b> 4:22;6:19;23:25	<b>8:30 (1)</b> 9:23		
<b>10 (3)</b> 4:23,25;10:1	<b>8:55 (1)</b> 22:23		
<b>11 (2)</b> 4:19,23			
<b>12 (2)</b> 9:24;10:14			
<b>13 (1)</b> 9:24			
<b>13-14 (1)</b> 9:21			
<b>14 (3)</b> 10:20;11:4;21:20			
<b>15th (2)</b> 4:25;21:19			
<b>16 (1)</b> 10:19			
<b>16th (1)</b> 21:19			