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CHARTER SCHOOL APPEAL COMMISSION

FLORIDA DEPARTMENT OF EDUCATION

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THE SCHOOL BOARD OF ALACHUA COUNTY, FL

VS.

NEWBERRY COMMUNITY SCHOOL, INC.



DATE: Monday, August 25th, 2025

TIME: Commenced at 9:41 a.m.  
Concluded at 1:52 p.m.

LOCATION: 325 West Gaines Street  
Room 1704/07  
Tallahassee, Florida

REPORTED BY: MICHELLE SUBIA, RPR, CCR  
Court Reporter and Notary  
Public in and for the  
State of Florida at Large

\* \* \*

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COMMISSION MEMBERS APPEARING:

AMANDA GAY, CHAIR

KIA SWEENEY-SCOTT

RICHARD MORENO

OSVALDO GARCIA

TIFFANIE PAULINE (VIA ZOOM)

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P R O C E E D I N G S

CHAIR GAY: Good morning. We will go ahead and get started. Again, thank you for your patience this morning.

This is a meeting of the Charter School Appeal Commission. Today is August 25th, 2025. Today's appeal is The School Board of Alachua County vs. Newberry Community School.

First we appreciate you all being here. We know it's not an easy trip. And for the work that you've put into the filings. And I also want to thank the Commission Members for the work leading up to and during this meeting as well.

My name is Amanda Gay, and I'm the Commissioner's designee to Chair the Commission. Also here for the department are Adam Emerson, our Executive Director; Jamie Braun, counsel for the Commission; Albert Wollermann, also counsel. Vicki Pineda has been in and out. She is our Charter Schools Director. And of course Karen Hines, our Commission Executive Assistant.

Karen, would you please go ahead and call the roll.

MS. HINES-HENRY: Osvaldo Garcia.

MR. GARCIA: Here.

1 MS. HINES-HENRY: Richard Moreno.

2 MR. MORENO: Here.

3 MS. HINES-HENRY: Tiffanie Pauline.

4 MS. PAULINE: Here.

5 MS. HINES-HENRY: Kia Sweeney-Scott.

6 MS. SWEENEY-SCOTT: Here.

7 CHAIR GAY: Thank you. As you have noticed,  
8 something is a little bit different if you've  
9 been to our Commission meetings before.  
10 Unfortunately, Ms. Pauline had a personal  
11 situation arise so we had to make her  
12 participation virtually.

13 But the good news is that you have a balanced  
14 panel. You have two members representing school  
15 districts and two members representing charter  
16 schools. And I will only vote if there is a tie.

17 Some housekeeping matters to get into before  
18 we get into the material. I am guilty of this  
19 myself, speaking too quickly for our court  
20 reporter here. She's recording our meeting today.

21 She can only hear and record one person at a  
22 time. So if you start to speak over one another  
23 or speak too quickly or cannot be heard, I'll ask  
24 that you stop and repeat. I might have to  
25 interrupt you in order for that to happen. One of

1 the best ways to ensure that everyone is heard is  
2 by using the podium and the microphone there.

3 I did want to go ahead and address lunch. We  
4 have a lot of issues to get through today, so I  
5 was hoping -- and it might take a break for us to  
6 figure it out -- that we could do a 30-minute  
7 lunch close to 12:00. There's a lot of places  
8 close around that can be delivered. We have a  
9 cafeteria downstairs. But if you all will just be  
10 thinking about that so that we can keep moving  
11 through the material, that would be helpful.

12 All right. So this appeal is unique in that  
13 it arises from an application that was submitted  
14 to the Charter School Review Commission. The  
15 application was vetted by the Florida Charter  
16 Institute, and the institute recommend that the  
17 Charter School Review Commission approve the  
18 application.

19 The Review Commission then considered the  
20 institute's recommendation and materials at a  
21 meeting, and ultimately voted to approve the  
22 application. The School Board of Alachua County  
23 has now appealed the Charter School Review  
24 Commission's approval of the application.

25 This is the first appeal of this kind, so I'm

1 going to walk through how we will consider this  
2 appeal today because it might look a little bit  
3 different from what we are used to.

4 First I do want to acknowledge that the  
5 Applicant has filed a Motion to Dismiss. That  
6 motion is not being heard by the Commission today.  
7 It's going to be going straight to the State Board  
8 alongside our written recommendation.

9 And I understand that there are arguments on  
10 both sides essentially saying that the Commission  
11 should evaluate the process used to review the  
12 application by the Review Commission rather than  
13 evaluate each issue. However, this Commission's  
14 role is to assist the Commissioner and the State  
15 Board with a fair and impartial review and make a  
16 written fact-based recommendation to the State  
17 Board.

18 So in order to achieve that and develop a  
19 thorough record, we will be addressing the legal  
20 issues and the merits arguments raised by the  
21 School Board in its brief.

22 I will permit the parties to preserve  
23 whatever arguments they wish with respect to that  
24 issue, but that's how we will navigate the rest of  
25 the day.

1           To tailor today's meeting, I understand that  
2           you've been in contract negotiations so I want to  
3           ask, because this is a long list of issues to get  
4           through, have any of the issues been conceded or  
5           addressed that we can take off the list today?

6           MR. HARMON: I'm not sure if I concede. And  
7           I think the arguments that were raised in the  
8           appeal are here today.

9           THE COURT REPORTER: He needs to identify  
10          himself.

11          MR. HARMON: But in terms of the  
12          arguments --

13          THE COURT REPORTER: I can't hear him.

14          CHAIR GAY: Can you hear okay?

15          THE COURT REPORTER: I can't. And he needs  
16          to identify himself.

17          CHAIR GAY: Thank you. I'll do that  
18          reminder.

19          Because there's a lot of us in the room, when  
20          you speak, please make sure to stand at the mic  
21          and also say who you are for ease of the court  
22          reporter. That would be helpful.

23          MR. HARMON: I'll do that again just to make  
24          it easy.

25          CHAIR GAY: Thank you.

1           MR. HARMON: My name is Terry Harmon. I am  
2           counsel to the School Board of Alachua County,  
3           Florida. And just to kind of reiterate the  
4           point, there is a contract in place. But in  
5           terms of the issues that were raised that led to  
6           this appeal, the School Board is not waiving any  
7           of those issues and does not believe that those  
8           issues have been resolved at this time. Thank  
9           you.

10          CHAIR GAY: All right. So I'll move into  
11          what I'm going to call instructions of how we're  
12          going to get through this today. I will permit  
13          the parties ten minutes each to explain their  
14          position.

15          When it's time, we will begin with the School  
16          Board since it is the School Board's appeal, and  
17          then move to the presentation by the Applicant.  
18          So if you want to preserve your arguments on why  
19          the Commission shouldn't be hearing on the merits,  
20          you can use your time, but please also make sure  
21          to address the merits because we will be making a  
22          recommendation on those today.

23          After these opening arguments, we will  
24          address the conversion vote, the municipality  
25          issue, and then address the specific areas of the

1 application that the School Board designated as  
2 not meeting the standard. So I'll go ahead and  
3 identify those issues so we're all on the same  
4 page.

5 First is student performance, assessment and  
6 evaluation. The second is exceptional students.  
7 The third is English language learners, then  
8 professional development, then facilities, then  
9 transportation, then food service, and then  
10 budget. So as you can see, we have a lot of  
11 content to get through today.

12 So once we have the opening arguments, I will  
13 permit the parties three minutes for each side to  
14 present on the vote issue, and then we'll open the  
15 floor to the Commission Members for questions or  
16 comments. And then after a decision has been made  
17 on that point, we will follow the same procedure  
18 for the municipality issue.

19 At that point, though, since the members have  
20 had the benefit of the material and have reviewed  
21 them for the remaining issues that I just  
22 identified, I think it's those eight, we will  
23 permit eight minutes total for the remaining  
24 issues, and then we will immediately go issue by  
25 issue with questions, comments, and then votes per

1 issue.

2 I'll say it again. Ten minutes opening,  
3 three minutes each on the two legal issues, and  
4 then eight minutes total on the merits. And we'll  
5 go through it again if we need to.

6 I will generally try to give both parties the  
7 opportunity to respond to a Member's question.  
8 But since we have a good bit of content to get  
9 through, we're not going to entertain a lot of  
10 extensive rebuttal. We'll leave it to the  
11 Commission Members' questions, as long as those  
12 are addressed.

13 And then based on the proceedings today,  
14 staff will prepare a written recommendation to the  
15 State Board. So now I can take a deep breath  
16 because that was a lot. And I wanted to ensure  
17 that we all understand how today will turn.

18 But now I will be moving into opening  
19 remarks. So we'll start with the School Board  
20 with ten minutes to explain its appeal and  
21 position. I will be using my phone for the timer.  
22 I'm ready when you are.

23 MR. HARMON: Let me make sure I adjust this.  
24 Is that any better? Do you want me to yell? How  
25 about now, can you all hear me okay?

1 Madam Court Reporter?

2 THE COURT REPORTER: Yes, sir.

3 MR. HARMON: Thank you again. As I  
4 mentioned a moment ago, my name is Terry Harmon,  
5 and I am here as counsel to the School Board in  
6 Alachua County, Florida. I'm also here with Tina  
7 Certain, who is the Vice Chair of the School  
8 Board.

9 Just a little by way of background. We're  
10 here on an appeal of February 26th, 2025 approval  
11 of the Applicant's application to convert Newberry  
12 Elementary School, which is operated by the School  
13 Board, to a charter conversion school. The School  
14 Board ultimately submitted its appeal of that  
15 appeal timely on April 30th, 2025.

16 And the couple of issues I'm going to hit are  
17 really already addressed on the issue statement  
18 that was issued by the Commission when we got here  
19 today. The first is as to the vote.

20 The School Board's position, which I think is  
21 clearly established by the evidence, is that the  
22 Review Commission erred by approving the  
23 application in light of the outcome of the vote.  
24 But to understand the voting issue, statute and  
25 the rule, it's important to kind of understand how

1 we got to that point and lay that out a little bit  
2 for the Commission.

3 When the parents of the Charter School  
4 submitted their letter to the principal  
5 identifying that they were going to proceed  
6 forward with attempting to convert the school, the  
7 letter -- the information that was attached to the  
8 letter that was transmitted to the school said,  
9 and I quote, "For the vote to pass, a majority,  
10 50 percent plus one, of teachers and a majority of  
11 parents must vote to support the conversion."

12 On February 23rd, February 29th, and March  
13 6th, a board member for Education First of  
14 Newberry, Inc. reiterated these voting  
15 requirements, this 50 percent plus one standard.

16 Before the voting took place in this matter,  
17 the School Board and representatives of the  
18 Applicant published notices and informational  
19 pieces outlining the voting process, further  
20 clarifying that a majority meant 50 percent plus  
21 one, consistent was the then existing State Board  
22 Rule 6A-6.0787. That rule defined a majority as  
23 more than half.

24 The failure to meet that 50 percent plus one  
25 threshold from the parties' understandings and

1 representations to the public was that application  
2 could not be submitted to the sponsor.

3 In this case, there were 44 teachers that  
4 voted, which applying the rule and the parties'  
5 position at that time meant that 23 teachers  
6 needed to vote in favor of the conversion. That  
7 vote itself took place over a week's time in  
8 April, from April 5th to April 12th.

9 The vote was overseen and conducted by the  
10 Alachua County Supervisor of Elections which  
11 served as the parties' agreed-upon independent  
12 arbitrator of the vote.

13 On April 17, 2024, the arbitrator and her  
14 staff read the rules to those in attendance,  
15 counted the ballots, tabulated the ballots, and  
16 determined that 22 teachers did not vote in favor  
17 of the conversion. The failed vote was posted, as  
18 required by ballot rule, on the School District's  
19 website. Families were notified of the outcome,  
20 and it was posted on social media and dispensed to  
21 the public.

22 When the vote was tallied and the public  
23 notices went out, the Applicant did not challenge  
24 the voting results for obvious reasons. The  
25 Applicant's position at that time, consistent with

1 the State Board rule, was that it required  
2 50 percent plus one of the teachers.

3 It wasn't until the unchallenged failed vote  
4 occurred that the Applicant changed positions and  
5 reversed course on what the voting requirements  
6 should have been, meaning they deferred to the  
7 statute which said that a charter school shall  
8 demonstrate the support of at least 50 percent of  
9 the teachers employed at the school. The statute  
10 also says according to the rules adopted by the  
11 State Board of Education.

12 In fact, there wasn't any clarity provided  
13 that it wasn't 50 percent plus one until May 6th,  
14 2024 when the Department of Education notified the  
15 Applicant's legal counsel that the statute  
16 governs.

17 Again, I want to reemphasize this to the  
18 Commission. There was a lot of attention in the  
19 community on this issue. This took place over a  
20 period of months. And the School Board and the  
21 Applicant consistently represented that for this  
22 vote to pass, it needed to be 50 percent, plus  
23 one. That was not addressed or changed or adverse  
24 positions taken until after the failed vote  
25 occurred.

1           But what was the School Board to do at that  
2 time? When this vote takes place, the parties  
3 took that position and the rule said what it said,  
4 it did what it was supposed to do, and that was to  
5 follow the rule as outlined in statute, which is  
6 exactly what the Board's position is today, that  
7 the Review Commission also should have done.

8           It should have followed the rules that were  
9 in place when the vote was taken, not follow rules  
10 or changes to rules that were not promulgated,  
11 that did not go through rule making, that were not  
12 challenged.

13           Again, in Florida, any party that is  
14 dissatisfied with a rule, doesn't like the way the  
15 rule is stated, doesn't like the content of the  
16 rule, has an opportunity to challenge that. You  
17 can file a rule petition to get the rule changed.

18           In addition to not challenging the actual  
19 vote, still have not challenged the actual vote,  
20 there was never a challenge to the rule or the  
21 implementation of the rule at the time the vote  
22 was taken. The rule was just simply ignored.

23           Inevitably what I anticipate is that the  
24 Applicant will make a presentation to the  
25 Commission that the statute governs over the rule.

1           What I represent back to you is they waived that.

2           In Florida, parties can waive things by their  
3 intentional knowing conduct. All the way up until  
4 the failed vote, there was no dispute. The  
5 parties' expectation is that 23 teachers needed to  
6 vote.

7           The second issue that I'm going to address is  
8 the actual merits of what was submitted, as well  
9 as the intertwining or inextricable intertwining  
10 of the City with the Applicant. There was a  
11 300-page application submitted. The School Board  
12 spent a significant amount of time, as it would if  
13 it was the sponsor reviewing an application, to  
14 note deficiencies, to note concerns, and to note  
15 issues so that when the institute reviewed the  
16 application, it had the full benefit of the issues  
17 that the School Board identified.

18           That information was provided on  
19 December 26th in the form of a 14-page mostly  
20 single-spaced document that matched the form that  
21 was required to be submitted at the time.

22           In the School Board's form provided to the  
23 institute, the School Board noted 92 concerns,  
24 recommended the denial of the application. Eight  
25 of those concerns did not meet standards.

1           A capacity interview was conducted by the  
2           institute after the School Board provided its  
3           input that lasted an hour and 25 minutes. There  
4           was no member of the Board, no district staff.  
5           Only those in attendance were the Charter School  
6           representatives and representatives of the City of  
7           Newberry.

8           During that institute meeting,  
9           representatives of the City of Newberry were able  
10          to discuss their expectations, that they were the  
11          financial back star, that they were a service  
12          provider. And while this may appear on paper that  
13          the Applicant is a 501(c)(3) nonprofit  
14          organization, the reality is that NCS is  
15          inextricably intertwined with the City, making  
16          this nothing more than a de facto municipal  
17          Conversion Charter Application, which is  
18          absolutely prohibited under state law.

19          Just a week after that interview took place,  
20          the institute submitted a review summary to the  
21          Review Commission, including its overall  
22          assessment. It noted five total concerns.

23          Under Rule 6A-6.0792, the institute's  
24          recommendation was required to address specific  
25          concerns raised by the sponsor. Yet despite weeks

1 of work that the Board dedicated to submitting  
2 input, the Board's concerns were summarized as  
3 follows, quote, "The District raised numerous  
4 concerns about the application as it was  
5 presented," closed quote. The District raised 92  
6 concerns. It didn't raise numerous concerns.

7 The Commission then met, encouraged the  
8 parties to ask -- or encouraged other members to  
9 ask probing questions so that the Commission would  
10 have all the facts and information needed to make  
11 that most important decision. A copy of the  
12 transcript of which is included in your materials  
13 for review.

14 The Board submits that the Review  
15 Commission's decision was not supported by  
16 competent substantial evidence. Just like the  
17 institute, the Commission failed to thoroughly and  
18 adequately evaluate the Conversion Charter School  
19 Application, including all of the concerns raised  
20 by the Board.

21 I anticipate that the Applicant will argue  
22 that there's no good cause requirement that must  
23 be established when an application is approved.  
24 But under 1002.33, the Commission stands in the  
25 shoes or has the same powers and duties as the

1 sponsor. Thank you.

2 CHAIR GAY: For the Applicant, you have ten  
3 minutes as well.

4 MR. ARNOLD: Great. Good morning,  
5 Commission Member, Madam Chair. My name Shawn  
6 Arnold, and along with Matthew Durden, I  
7 represent Newberry Charter -- Newberry Community  
8 School.

9 We are here today to address two key points,  
10 first whether the teacher vote to convert Newberry  
11 Elementary to a public Charter School was valid.  
12 And then second, where the CSRC's unanimous  
13 approval of the application is backed by competent  
14 substantial evidence. The answer to both of these  
15 questions are inexplicably yes.

16 The record supports CSRC's decision, while  
17 the School Board Appeal and its 92 concerns relies  
18 on legally and factually inaccurate statements and  
19 attempts to reweigh the evidence and ask you to do  
20 the same thing, which you're not allowed to do  
21 under law.

22 So let's begin with the vote. The Charter  
23 Statute at the time provided that a conversion  
24 application must demonstrate at least 50 percent  
25 of the teachers employed at the school. We

1           concede for today's purposes that of the 44  
2           teachers, 22 voted yes and 22 voted no, satisfying  
3           the statutes' requirement of at least 50 percent  
4           requirement for conversion.

5                       No one, not the Florida Department of  
6           Education, not the parties to anything, have the  
7           ability to override what the Legislature said is  
8           the law. This was confirmed by Chancellor Adam  
9           Miller, who stated that the 50 percent standard  
10          applied, and by FDOE's counsel, Jim Richmond, who  
11          advised the CSRC accordingly. The CSRC properly  
12          validated the result.

13                      In addition, the School Board's argument that  
14          at least 50 percent means more than 50 percent,  
15          which they put in writing, contradicts the plain  
16          reading of the statute and common sense. Had the  
17          Legislature intended to say majority, they would  
18          have said majority, as they said in the same  
19          subsection just a few words later when they said  
20          that a majority of parents are required to vote.

21                      Alachua mentioned just a few moments ago the  
22          idea about that the application was submitted to  
23          the sponsor. They also put in writing that the  
24          application must be submitted to the sponsor. But  
25          in fact, it was submitted to FCI. So both parties

1 in this instance made statements in writing that  
2 were erroneous. And that doesn't change the law.

3 The standard of review today before this is,  
4 I think the parties concede, competent substantial  
5 evidence. Florida law is clear that appellate  
6 bodies like yourself do not reweigh the evidence  
7 or substitute the judgment.

8 I'm going to address the merits of the  
9 application. But as you do that, again, you  
10 should not substitute your judgment for what the  
11 FCI did. You only look at seeing what FCI did to  
12 see if there's competent substantial evidence.

13 The CSRC found that the application met or  
14 exceeded the requirements in all domains, ignored  
15 properly the improper factual and legal  
16 contentions of the District in its evaluation.  
17 The team assembled to write this application,  
18 Ms. Sherry Shannon, Lindsey Granger, the SFS team  
19 at our firm created an excellent application.

20 The CSRC correctly reviewed the record  
21 through the thorough group brought by FCI  
22 together, conducted public meetings, considered  
23 arguments from both sides, including oral  
24 arguments presented by the District in a  
25 significant amount of time, including

1 representatives of the District that were allowed  
2 to speak.

3 This is precisely the type of evidentiary  
4 foundation that satisfied the standard. And I'll  
5 remind you that this is the only application of  
6 the 20 that the FCI has -- and CRC has reviewed to  
7 this point to actually pass the process. So any  
8 idea that this was not a rigorous process is  
9 simply false.

10 Again, the 92 concerns raised by the  
11 appellant and restated this morning is as if 92 is  
12 supposed to come over something. But if it is a  
13 misstatement of law or its an inaccurate  
14 statement, it has no value.

15 In the brief time I have to address with you  
16 this morning, I'm going to add a few additional  
17 things to the things that we put in our brief that  
18 shows that the District's complaints are simply  
19 false.

20 Alachua states remarkably that it's unclear  
21 how employees from a not-for-profit company can be  
22 eligible for FRS when it's very clear that the  
23 Charter Statute, as well as the contract that they  
24 signed on page 34 says that the employees of the  
25 school may be eligible for FRS.

1           Alachua claimed there's no budget provision  
2           in the application for the student information  
3           system when clearly under Subsection 20 of the  
4           Charter Statute, Charter Schools paid for that  
5           access through their administrative fee. So  
6           asking the school to pay for access to the SFS  
7           would be illegal, certainly in validating one of  
8           their 92 concerns as being something that is not  
9           good cause or competent substantial evidence.

10           The District's claim that the underfunded  
11           maintenance is incorrect because Charter 8 --  
12           Subsection 18 of the Charter Statute requires the  
13           District, because it's their building, to pay to  
14           maintain the building.

15           This had been summarized and continued in an  
16           agreement between the parties in the facility  
17           management agreement for which the School Board  
18           covers all noncapital repairs, major preventative  
19           maintenance, such as roofing, HVAC, plumbing and  
20           electrical. Yet today they continue to tout that  
21           they have 92 reasons for dismissal.

22           Alachua also claims the application lacked an  
23           assessment system. Yet the application clearly  
24           mentions (inaudible) along with budget allocations  
25           to match. Alachua alleges a failure to address

1 specialized transportation when the application  
2 clearly states that IEP -- if an IEP required  
3 special transportation, as many of their students  
4 do already, that they will provide that, and they  
5 identify the funding source for it.

6 Finally -- and, again, we can go on for quite  
7 a while, and we'll probably get to a lot of them  
8 later -- is Mr. Durden is going to detail later in  
9 facilities, transportation and budget, many times  
10 they claim that there's nothing there and they  
11 cite to a line item, but it's contained within the  
12 budget, just a different line item. That's not  
13 competent substantial evidence. That's a budget.  
14 A budget is an entire item.

15 So curiously today Alachua continues to  
16 attempt to characterize NCS as a de facto  
17 municipal charter school. There is no such thing.  
18 There just isn't. It's a meritless claim.

19 Municipal charter schools are governed by  
20 City Commissioners, and we have them throughout  
21 our state. This school was governed by  
22 independent, not-for-profit board.

23 And what the District fails to understand  
24 what the CSRC members clearly did is that the  
25 City's partnership is a strength, not a

1           disqualifier. It has financial benefits. It has  
2           community support benefits, and it has other  
3           things that support the school.

4           In the end, this case isn't complex. The  
5           teacher votes succeeded because the required  
6           50 percent threshold was met. The CSRC's  
7           unanimous application approval is supported by  
8           competent substantial evidence across every domain  
9           which respected leaders who know and understand  
10          charter school law approved the application. The  
11          rigorous review was based on the applicable  
12          standards of law, not misstatements of law or  
13          fact.

14          The School District's appeal was an effort to  
15          get you to reweigh this evidence and ask for you  
16          today to substitute your judgment for that of the  
17          CSRC, and that is not permissible. Therefore, we  
18          ask this Commission to affirm the CSRC's decision  
19          and allow the application that has already been  
20          approved between the parties to proceed. Thank  
21          you.

22                 CHAIR GAY: All right. Thank you.

23                 I believe we'll jump into the first issue,  
24                 which is whether the vote to convert Newberry  
25                 Elementary School to a charter school met the

1 threshold requirement for teachers in support of  
2 conversion under Florida Statutes.

3 I'll give each of the parties three minutes  
4 to summarize your arguments on this particular  
5 issue and then we'll move to questions.

6 MR. HARMON: Would you like the Board to go  
7 first?

8 CHAIR GAY: Yes. I'm sorry.

9 MR. HARMON: That's okay.

10 Thank you again. I think the parties had a  
11 good opportunity to kind of jump into the vote  
12 issue. But what I want to point out is that on  
13 Issue No. 1, which is identified in the  
14 presentation before you, is whether the vote met  
15 the threshold.

16 And interestingly it only cites the statute.  
17 It doesn't cite the actual ballot rule that the  
18 parties followed at the time the vote was taken.  
19 So I would ask that that be considered.

20 The other issue that's not identified on what  
21 this Commission is going to be voting on is  
22 whether the Applicant and the parties waived the  
23 requirement that it only be a majority as set  
24 forth in statute. Again, the rule itself -- excuse  
25 me -- the statute itself says the vote must be

1 conducted according to rules adopted by the State  
2 Board of Education.

3 The State Board of Education at the time,  
4 contrary to what the common sense argument that  
5 the Applicant made, said that a majority means  
6 more than half. It doesn't say 50 percent. It  
7 says it means more than half.

8 So in order for this Commission to properly  
9 rule on the legal issue, I think it needs to  
10 address whether or not the parties waived --  
11 knowingly and intentionally waived the requirement  
12 in statute that the vote be 50 percent plus one,  
13 or as the State Board rule says, a majority being  
14 more than half.

15 Again, what I also present to the Commission  
16 is that throughout the ten-minute presentation  
17 that the Applicant made, there was not a single  
18 mention to my recollection that for months the  
19 parties expressed publicly and to each other and  
20 to the neutral arbitrator who was the Supervisor  
21 of Elections that the voting requirements were 50  
22 percent plus one. We cannot ignore that,  
23 especially when waiver is a legal concept that  
24 parties can't engage in.

25 Thank you, Members of the Commission.

1 CHAIR GAY: Thank you.

2 Okay. Whenever you're ready.

3 MR. ARNOLD: I find it interesting that the  
4 District brings up waiver because what is clear  
5 case law is that if you don't put something in a  
6 brief, you've waived it. The waiver argument is  
7 not before you today. They didn't bring it up to  
8 you in their brief, Ms. Gay, so I don't think  
9 that there's any way in which they should  
10 consider this issue of waiver, because it wasn't  
11 briefed and it's not before this Commission. I  
12 don't recall that being seen at all.

13 But in any event, even if you want to address  
14 the issue itself, again nobody, be it the parties,  
15 be it FDOE, has the right to waive the clear  
16 standard that's presented in the statute.

17 You've properly put before us today the issue  
18 of what is the question. And with the detail that  
19 we've chosen to address this with this morning, it  
20 is the statute, because the statute controls, not  
21 the rule.

22 The rule, of course, was almost -- after this  
23 was immediately changed when it was brought to the  
24 attention that the rule was erroneous. And you  
25 cannot rely on an erroneous rule, be it the School

1 District or the school, no matter who it benefits.  
2 If a rule is erroneous, a court would overrule it  
3 and look and see what the statute is.

4 So in this case, the issue of waiver is not  
5 before you because the District has waived it by  
6 not briefing it. But secondly, again, the idea of  
7 the statute controls is always there. And I've  
8 cited numerous cases in our brief on that issue.

9 Adam Miller's direction and the direction of  
10 the other general counsel within DOE was correct.  
11 The statute controls. Fifty percent was the  
12 threshold. Fifty percent is what's been  
13 stipulated to that it meets, and that is what you  
14 should rule today. Thank you.

15 CHAIR GAY: Thank you.

16 All right, Members, I'll open the floor for  
17 any questions or comments that you may have.

18 MR. GARCIA: I think I would like to ask our  
19 legal counsel to clarify. Osvaldo Garcia.

20 In regards to the State Statute, which I see  
21 clearly states 50 percent, I don't see the plus  
22 one. Does the School District have the authority  
23 to go against the State Statute? I know the  
24 answer, but I just want clarification or further  
25 information from legal counsel.

1 MS. BRAUN: Sure. So the short answer is  
2 no, you cannot go beyond what the statute says.  
3 And what was already stated here today, the  
4 statute says that an application to convert a  
5 public school to a charter school must  
6 demonstrate support of at least 50 percent of the  
7 teachers at the school.

8 Our rule at the time did say "majority," and  
9 it was quickly amended once this was brought to  
10 our attention. But the case law is quite clear  
11 that when an administrative rule and a statute are  
12 inconsistent, the statute controls.

13 MR. GARCIA: Okay. Thank you.

14 CHAIR GAY: Any other questions from  
15 members?

16 MS. SWEENEY-SCOTT: Yes. Kia Scott.

17 CHAIR GAY: I think our people in the back  
18 might not be able to hear, so if you all can  
19 speak up.

20 MS. SWEENEY-SCOTT: Okay. I guess this is a  
21 question for both parties. Did you all agree at  
22 the minimum being 23 percent for the vote for the  
23 teachers?

24 MR. HARMON: Yes. From February until the  
25 vote, it was understood that 23 teaches needed to

1 vote in favor of conversion for it to pass.

2 CHAIR GAY: Any other questions or comments,  
3 Members?

4 MS. PAULINE: I have a question.

5 CHAIR GAY: Yes. Please go ahead.

6 MS. PAULINE: Yes. I barely heard from my  
7 colleagues on the table, so if I repeat the  
8 question that was already asked, please forgive  
9 me.

10 But my understanding is the first step of the  
11 conversion was to establish whether or not there  
12 was an adequate number of votes. It seems to me  
13 that there was an understanding in writing,  
14 publication, notice to all parties of what that  
15 threshold was. Later it was identified that maybe  
16 the appropriate threshold was not met based on the  
17 statute even though there was a contradiction with  
18 the rule.

19 Was there an opportunity given the  
20 timeline -- and I do not know this so I don't know  
21 who I'm asking this question to. But at the point  
22 where there appeared to be an inconsistency or a  
23 difference of opinion, would there have been an  
24 opportunity to go back and do the vote over again  
25 just for the sake of proper communication and

1 transparency?

2 MR. ARNOLD: Shawn Arnold. There is an  
3 opportunity to redo the vote, but it's only done  
4 on a certain cycle. It can only be held so  
5 often. So from our perspective, once we looked  
6 at it, we do -- you know, the record is clear  
7 that there were publications that were out there  
8 saying what the vote was.

9 But when the rule occurred, it was actually  
10 the first time we actually looked at the statute  
11 and realized that the rule was in conflict with  
12 it. At that point, we did not object to it,  
13 because as we note in our brief, we actually do  
14 object to the Supervisor of Elections, who  
15 erroneously threw out a vote who has no authority  
16 to do it.

17 At that point, we would have objected to the  
18 vote. But when we looked at the statute and saw  
19 that the statute was in conflict and had a chance  
20 to communicate with DOE, at that point we decided  
21 it wasn't necessary to redo that.

22 So I think the answer is no, there's not an  
23 opportunity to have redone that vote without  
24 having to wait the statutory required time.

25 CHAIR GAY: Did the School Board want --

1 MS. PAULINE: So can I follow up to that or  
2 would the District like to respond?

3 MR. HARMON: Sure. Just briefly.

4 Yes, statutorily and through rule there  
5 was -- this is Terry Harmon for the School  
6 Board -- there was an opportunity to redo the  
7 vote. And I think that would have been a better  
8 alternative than to change the rule after the  
9 fact.

10 And then one other piece to add to that too  
11 is there has been no challenge to the actual vote.  
12 I understand in the Applicant's briefing, there  
13 are some grievances about how a particular vote  
14 was conducted.

15 But the neutral arbitrator rule, the way that  
16 they did on the vote -- and there's been no  
17 challenge to it. There's been no filing. There's  
18 been no contesting it. There were 22 teachers  
19 that voted. That is not in dispute. Excuse me,  
20 22 teachers that voted in favor of conversion.

21 MS. PAULINE: Okay. So my followup, if I  
22 might, if I look at this from an auditor's  
23 standpoint, it was the Supervisor of Elections I  
24 believe that was indicated as the objective  
25 entity that was running this vote.

1           So at any point, did that new information  
2           make its way back to the Supervisor of Elections  
3           so that they could then reevaluate the process and  
4           reissue the outcome, because I believe what was  
5           included in the documentation that we read was a  
6           letter from the attorney on the Applicant side  
7           stating that it did not pass a vote. But we did  
8           not get anything, or I didn't recall seeing  
9           anything to that effect from the Supervisor of  
10          Elections.

11           Did I miss that?

12           MR. ARNOLD: Ms. Pauline, Shawn Arnold. No,  
13           you did not miss it. The role of the auditor, as  
14           you correctly point out, in the statute is simply  
15           to count the vote. In fact, she actually refused  
16           to, quote, certify it, so there was nothing in  
17           writing. But I think that the parties, again,  
18           for this purpose, because it meets the statute,  
19           we agree that the vote was 22/22.

20           Did I answer your question?

21           MS. PAULINE: You answered my question.

22           MR. ARNOLD: Thank you.

23           CHAIR GAY: Any other questions, Members?

24           MS. SWEENEY-SCOTT: I have one more  
25           question. This is Kia Scott.

1           I'm not sure which party mentioned it, but it  
2 was said that the statute wasn't visited until  
3 there was a problem with the rule. But the  
4 statute clearly says that it's according to the  
5 rules adopted.

6           So at what point -- at what point did I guess  
7 the Applicant realize that this was a problem?

8           MR. ARNOLD: Thank you, Dr. Scott. We  
9 realized it after we went back and just looked at  
10 the statute. If you read the statute on this  
11 point, it says that rules will be promulgated  
12 consistent with this.

13           The rule was inconsistent with it, so  
14 therefore it is invalid. And, again, that's  
15 demonstrated by DOE's very quick changing of it  
16 once it was brought to their attention.

17           It was an error that just happened. But the  
18 fact is that you can't -- the department, the  
19 District cannot enforce a rule that is invalid and  
20 therefore the statute controls in this situation.

21           CHAIR GAY: Thank you. Did you have  
22 anything else?

23           MR. GARCIA: Yes. We are charged with the  
24 responsibility of looking at the State Statute  
25 and making sure that both parties are in

1           accordance to it. So in that sense, I mean, I  
2           look at the statute, and it's clear to me. So  
3           basically what the District was trying to do goes  
4           against State Statute.

5           CHAIR GAY: I'm sorry, I jumped over you  
6           before, so if you had a response to that concern.

7           MR. HARMON: Can I take the last two?

8           CHAIR GAY: Sure.

9           MR. HARMON: We're all getting our steps in  
10          today going up and down.

11          So two points on the first questions that  
12          were asked. My understanding is that the  
13          Applicant became aware -- and it may have been  
14          sooner, but there was an email communication that  
15          was sent to the Applicant's legal counsel on  
16          May 6th, 2024. And I do not believe the School  
17          Board's counsel was copied on that communication.  
18          It appeared to be a one way, and it was a reply.  
19          So I'm not sure how far prior to May 6th the  
20          Applicant became aware.

21          But on to that issue, there's been a lot of  
22          talk about you can't enforce an invalid rule. The  
23          proper way to invalidate a rule is through a rule  
24          challenge, not through an email.

25          To the second point, in terms of the parties

1 being charged with understanding the statutes, I  
2 think it's a little unfair to place that on the  
3 School Board only when both parties for months  
4 understood that it was 50 percent plus one.

5 Additionally, the statute itself does say  
6 that the process must be, quote, "according to  
7 rules adopted by the State Board of Education,"  
8 closed quote. The rule at the time had been in  
9 effect since I believe 2022, so we're talking  
10 about two years, maybe even longer. I don't have  
11 it in front of me.

12 The parties understood that they were  
13 supposed to follow the rule. So I think it's  
14 unfair to criticize the School District for not  
15 following the statute when what it was doing was  
16 following the rule created by the agency  
17 responsible for carrying out that statute.

18 And that really goes to the heart of our  
19 biggest issue is we're being charged with  
20 following something that we were supposed to  
21 follow, the parties were both supposed to follow  
22 at the end of the day. Thank you.

23 CHAIR GAY: Members, is anyone prepared to  
24 make a motion on the conversion vote issue?

25 MS. SWEENEY-SCOTT: I just have one more

1 question. I'm sorry.

2 CHAIR GAY: Of course.

3 MS. SWEENEY-SCOTT: For both parties, what  
4 made you all look at the rule first as opposed to  
5 statute? How did you know there was a separate  
6 rule or a rule that would guide that without  
7 looking at the statute first?

8 MR. HARMON: I'll probably have a little bit  
9 of a nonanswer. I'm not sure back in February of  
10 2024 when the letter was sent from the parent of  
11 the school seeking to convert it. What I can say  
12 is with that letter, the material that was  
13 attached to it referenced the State Board Rule  
14 and said 50 percent plus one in it.

15 So I think from liftoff, the School Board's  
16 expectations -- and I think it's fair that when  
17 the School Board picks up a State Board Rule, its  
18 expectations are that the rules are proper and  
19 correct. So that's kind of I think everybody just  
20 went along with what the State Board Rule  
21 required. And it wasn't until months later that  
22 there was an argument that the statute was  
23 different.

24 MR. ARNOLD: I think if you read the rule,  
25 the rule really talks about the valid process.

1 It talks about the seven days it has to be  
2 presented and the period of time and everything  
3 else like that. That's really what the rule set  
4 out in the process.

5 When the parties were looking at that, we  
6 were looking at that part of the process, so how  
7 does the letter get to the principal, how does the  
8 process start, when are the voting periods and  
9 other things like that.

10 I think nobody looked behind the idea and  
11 recognized that that majority was there because  
12 really we were looking at -- it's kind of like  
13 there's so many statutes out there that then get  
14 promulgated by rule and how do we do this. We can  
15 think of all of the changes that just happened in  
16 2025 and we're waiting for rules to be made to  
17 wait to implement these things.

18 And that's exactly what happened here.  
19 Nobody looked behind the curtain until the vote  
20 came out the way in which it did. And when we  
21 were making the decision as to whether we wanted  
22 to challenge the vote or whatever, we went to the  
23 statute and said we've met the threshold, this  
24 rule is wrong, you can't make us live by these  
25 rules. And so that's why we -- that's why it came

1 up the way it did.

2 CHAIR GAY: Okay.

3 MS. PAULINE: This is Tiffanie. I have a  
4 followup question for both parties.

5 CHAIR GAY: Go ahead.

6 MS. PAULINE: May I?

7 CHAIR GAY: Yes.

8 MS. PAULINE: So I guess where I'm a little  
9 concerned is this was not just an elementary  
10 school. In the beginning I believe it was all  
11 three schools.

12 And just doing my basic researching, tapping  
13 into the different links and the information that  
14 was provided, it appears to me that these  
15 thresholds were established early on and were  
16 publicized either in the communication that was  
17 going out from the bodies associated with this  
18 vote as well as in the newspaper. So I'm just --  
19 I'm finding it a little curious.

20 It seemed to be that everyone was on the same  
21 page in terms of what the necessary minimum  
22 requirements were going to be throughout the  
23 process but not until after the vote came out was  
24 there a challenge.

25 So I guess where -- I'm not a lawyer and I

1 don't pretend to be, but it seemed as though  
2 everyone was on the same page and following the  
3 rule as it referred to the -- following the  
4 statute where it referred to the rule and using  
5 that as a guidance to a point that even the  
6 independent Supervisor of Elections was also using  
7 it until it was not.

8 So that's what I need a little bit of clarity  
9 on. I'm just a little confused as to how we are  
10 where we are.

11 MR. HARMON: I'm asking myself the same  
12 question. I mean, I'm not sure how we're  
13 standing here today still arguing over whether or  
14 not -- we're disputing whether or not a vote  
15 passed when both parties since at least  
16 February 20th all the way through the vote  
17 understood, notified members of the public, when  
18 we had teachers going out to vote, they  
19 understood what the vote needed to be, parents  
20 understood what the vote needed to be.

21 I think in the record that was submitted,  
22 there was even a newspaper article indicating that  
23 the vote failed because only 22 voted in favor.  
24 Again, it wasn't until after all those months of  
25 work where the parties complied with the State

1 Board Rule that an email chain essentially led to  
2 the change of the outcome of the vote.

3 The more appropriate way if a party was  
4 aggrieved by the State Board Rule was to challenge  
5 the rule, not through email but by a rule  
6 challenge. There was an avenue. There could have  
7 been a challenge to the -- there could have been  
8 an appeal of the vote outcome.

9 For it to have to get this far for that  
10 threshold issue to get addressed, that's the same  
11 question that we've been asking because it seemed  
12 pretty clear that this vote died after the  
13 teachers were done voting.

14 MR. ARNOLD: I would say that the response  
15 is the reason why we're standing here today is  
16 because something that the District put out there  
17 erroneously was not followed, which is that the  
18 application was supposed to go to them, okay.

19 There were errors on both sides. And the  
20 fact that they said that the application was  
21 supposed to go to them does not change the fact  
22 that we were allowed to go to the FCI -- I'm  
23 sorry -- to the CSRC. I apologize.

24 And in addition, again, it's the rule of law.  
25 It is a pure legal issue. And this happens all

1 the time in all kinds of issues that we deal with,  
2 whether it be District or Charter School or  
3 whatever.

4 People go under the assumption of the rule or  
5 law being something and then it changes. But the  
6 point is that it is a rule of law. Nobody is  
7 above the law. And you have to follow it. And  
8 court after court after court consistently say  
9 statute controls over rule.

10 There was no rule challenge. It wasn't  
11 challenged via email. I inquired with the DOE to  
12 check to see if they agreed with our position, and  
13 they said that they did, which is why we went  
14 ahead and filed with the CSRC.

15 The email exchange between -- and the fact  
16 that our inquiry had been made telephonically and  
17 it came back in a single email wasn't our choice  
18 that it occurred back that way. But when we  
19 inquired with the department and asked do you  
20 concur with our position, we got an email back  
21 that said that we did.

22 And then there was an opportunity for them to  
23 challenge it. They challenged it in front of the  
24 CRC. They're challenging it now. The point is  
25 that at the end of the day, the statute controls.

1           And whether there was mutual mistake, single  
2           mistake, whatever it was, it doesn't change the  
3           law. Mistakes by the parties cannot overcome what  
4           the statute says.

5           CHAIR GAY: All right, Members, are we  
6           prepared or is further discussion needed?

7           MR. GARCIA: Can you clarify the motion?

8           CHAIR GAY: Yes. It would be my opinion  
9           that our motion should be focused on whether or  
10          not the vote to convert met the threshold  
11          requirements in statute and not include the  
12          waiver issue because that was not raised in the  
13          appeal.

14          MR. MORENO: I would like to make a motion.  
15          I move that the Commission find the vote to  
16          convert Newberry Elementary School to a charter  
17          school did meet the threshold requirement for  
18          teachers in support of conversion pursuant to  
19          1002.33.

20          CHAIR GAY: Okay. Thank you. There is a  
21          proper motion on the floor. Do you have a  
22          second?

23          MR. GARCIA: I second.

24          CHAIR GAY: Second by Osvaldo.

25          MS. PAULINE: Can you repeat the motion,

1 please? I couldn't hear it.

2 MR. MORENO: I move that the Commission find  
3 that the vote to convert Newberry Elementary  
4 School to a charter school did meet the threshold  
5 required for teachers in support of conversion  
6 pursuant State Statute.

7 CHAIR GAY: All right. Did you hear it okay  
8 Tiffanie?

9 MS. PAULINE: Yes, I did.

10 CHAIR GAY: Okay. So we have a motion and a  
11 second.

12 Karen, will you please call the roll.

13 MS. HINES-HENRY: Richard Moreno?

14 MR. MORENO: Yes.

15 MS. HINES-HENRY: Osvaldo Garcia?

16 MR. GARCIA: Yes.

17 MS. HINES-HENRY: Tiffanie Pauline?

18 MS. PAULINE: No.

19 MS. HINES-HENRY: Kia Scott?

20 MS. SWEENEY-SCOTT: No.

21 CHAIR GAY: I will vote yes, so the motion  
22 carries.

23 The next issue is regarding the municipality  
24 argument so I will give --

25 Madam Court Reporter, are you okay to keep

1 going?

2 THE COURT REPORTER: Yes.

3 CHAIR GAY: Parties, are you okay to keep  
4 going?

5 (Affirmative response.)

6 CHAIR GAY: All right. So the next issue is  
7 regarding the municipality issue. I will provide  
8 again both parties three minutes to address the  
9 issue, and then we will jump into questions like  
10 we just did.

11 So the School Board can go first.

12 MR. HARMON: May I just have one moment?

13 CHAIR GAY: Yes.

14 MR. HARMON: So on this piece, I know I've  
15 got three total minutes. I think we've  
16 adequately briefed the issue that's presented to  
17 the Commission as to whether or not this is a de  
18 facto application by municipality.

19 I would point to the comments I think in the  
20 transcript from Tallahassee State College  
21 President Jim Murdaugh when there was a discussion  
22 at the Review Commission meeting about the City's  
23 involvement in this case.

24 And I recognize one of the Commission Members  
25 mentioned that's a partner. But the comments by

1 Commissioner Murdaugh were is this precedent, this  
2 seems like precedent to us. And that's kind of  
3 where the School Board is coming from on this.

4 At the institute meeting when the Committee  
5 Members reviewed the Charter Application and the  
6 input from the School Board, the City was there.  
7 The City's Mayor was there. The Mayor was  
8 recognized on the record, appreciated for being  
9 present.

10 And when you look at the facts, separate from  
11 the name on the application and some of the  
12 contents of the application, these employees are  
13 going to be City employees working for the Charter  
14 School.

15 There's mention that the City Manager may  
16 have oversight over hiring and firing of Charter  
17 School employees. There's a two-plus million  
18 dollar pledge by the City to help with operational  
19 needs of the school. I believe there's a \$25 --  
20 and I hope I get this right -- \$25 charge for each  
21 student at the school from the City to help run  
22 it.

23 So to argue it's just a partner I think  
24 really ignores what actually occurred and what is  
25 actually at issue here, and that is really that

1 the City is going to be so inextricably  
2 intertwined with the operations of this school  
3 that there's truly no way to separate out whether  
4 or not this is run by the 501(c)(3) or whether  
5 this is run and managed by the City.

6 And one other point, since I did not have an  
7 opportunity earlier, the School Board did not  
8 waive its waiver argument. I think it was  
9 adequately briefed in the proceeding. Thank you.

10 MR. ARNOLD: There is no such thing in law  
11 as a de facto municipal charter school. There  
12 are municipal charter schools in which the City  
13 Commissioners are the governing board. The  
14 governing board in this case is an independent  
15 board. It has contracts with the City.

16 If you were to take what the District is  
17 proposing to you today, then arrangements where  
18 charter schools have districts -- have contracts  
19 with districts, its sponsor would also be illegal.  
20 This argument has no merit.

21 The fact that they -- they are allowed to  
22 partner with whomever they would like and they  
23 have. And they have contracts that have loans,  
24 repayment provisions, interest rates. And they're  
25 charging a market rate of \$25 per employee to

1 provide HR services. That's completely valid.

2 And the fact that they chose to do it with  
3 the City as opposed to anybody else or the School  
4 District, which they could have chosen to do.

5 In Lake County, with its diversion for 15  
6 years, five schools, four of which are my clients,  
7 their employees were employees of the School  
8 District. There are all kinds of arrangements out  
9 there, and there's nothing that is a de facto  
10 municipal charter school. There is no such thing.

11 And I'll also point out that the fact that we  
12 stand here today, there can now be municipal  
13 conversion charter schools because that was part  
14 of the 2025 legislative change. So the idea that  
15 this was something that potentially is precedent  
16 is now fact. You can now actually do this.

17 I don't understand at all what this argument  
18 is. There's no legal basis for it, and you should  
19 vote that this is not a de facto municipal charter  
20 school.

21 CHAIR GAY: All right. Members, I'll go  
22 ahead and open the floor for questions or  
23 discussions on this issue.

24 MR. MORENO: Yeah. This is for the School  
25 District. So in looking through the bylaws, the

1 board, it seems, is independent. So how would  
2 you say that it would be a municipal charter or  
3 is there any controls where the District -- I  
4 mean the school had the capacity to fire or have  
5 somebody else provide those services? Starting  
6 with the District.

7 MR. HARMON: Thank you. I have an  
8 opportunity to respond to that. There's just a  
9 couple of examples I think where we cited in the  
10 brief that the independence, meaning the bylaws  
11 suggesting that the 501(c)(3) would be separate  
12 and distinct from the City.

13 I kind of point to a couple of facts where  
14 the application itself says that the principal  
15 shall notify the City Manager of personnel  
16 decisions and that the, quote, "City will hire the  
17 individual and then assign them to the charter  
18 school," closed quote.

19 And then, quote, "When the principal makes a  
20 decision to terminate or renew a charter school  
21 staff member, the principal will notify the City  
22 Manager," closed quote.

23 And, quote, "The City will then either  
24 terminate the individual, nonrenew them or the  
25 individual will no longer be assigned to the

1 charter school in any capacity."

2 So there's not independence there. And I  
3 understand that there might be hyperfocus on the  
4 word "notify," which suggests that there's not  
5 further action. But the application itself did  
6 indicate that the City would then proceed forward  
7 with a termination proceeding. So at least as it  
8 relates to employees, I question that there's  
9 independence there.

10 And then also the \$25 charge per student that  
11 the City is going to place on that, I'm not sure  
12 how that works. The county, Alachua County, is it  
13 going to charge \$50 per student? Just  
14 understanding how the City gets that type of  
15 access and leeway there for a truly independently  
16 run organization.

17 And then just comments that were also made  
18 during the capacity interview by the current City  
19 Manager that the City was the financial back star  
20 and service provider. So, again, that doesn't  
21 seem to suggest independence from our perspective.  
22 But express language other than on the employment  
23 side, that's it.

24 MR. ARNOLD: Mr. Moreno, I think your  
25 question is exactly on point. The fact is that

1 they are a service provider. Service providers  
2 can be terminated. They are not involved in the  
3 bylaws. They're not involved in the government  
4 end running of it.

5 The principal will notify basically the HR  
6 company that the person no longer works at the  
7 school. The City will then follow direction and  
8 remove that person from the roles of being  
9 employed. That sounds like paychecks. That  
10 sounds like anything else.

11 There is nothing in there that says that.  
12 And the contract with the City can be terminated  
13 by the school. They're a service provider. That  
14 is not a de facto municipal charter school.

15 CHAIR GAY: Any other questions, Members?  
16 Are you prepared to make a motion?

17 MS. SWEENEY-SCOTT: I just have one  
18 question.

19 CHAIR GAY: Sure.

20 MS. PAULINE: I have a question when you're  
21 ready.

22 CHAIR GAY: Okay. Kia is in the middle of  
23 her question, then we'll move to you.

24 MS. PAULINE: Okay.

25 MS. SWEENEY-SCOTT: When we see a situation

1           like this with a management company, there's like  
2           a draft contract or MOU. Did you all have that  
3           in place?

4           MR. ARNOLD: Yes, we did. It was provided  
5           as part of the application. If you want, I can  
6           go dig it out, but it's there.

7           CHAIR GAY: Tiffanie, you can go ahead with  
8           your question.

9           MS. PAULINE: I couldn't hear you. Can you  
10          repeat?

11          CHAIR GAY: You can go ahead with your  
12          question.

13          MS. PAULINE: Okay. Thank you.

14          Just a little bit of background for me. I  
15          guess I would like to hear from both parties.

16          Basically how does this conversion movement  
17          start? Was it grassroots? And if so, can you  
18          describe how it all came about?

19          MR. ARNOLD: Thank you, Ms. Pauline. It  
20          started based on community members being  
21          dissatisfied with what they were getting from the  
22          District and a series of what they believed were  
23          promises that were not held.

24          It is an isolated part of the county, the  
25          City of Newberry is. And community members came

1 forward with the idea of wanting to have more  
2 local control. So as seen with a lot of other  
3 conversion charter schools, that kind of fit that  
4 same mold. The parents got together and partnered  
5 with people to in essence start this process.

6 MS. CERTAIN: Good morning. Tina Certain.  
7 I'm a member of the Alachua County School Board.  
8 Sorry, my voice is a little raspy.

9 The question was asked how did this movement  
10 start. It was presented as being a group of  
11 parents that came around on the table that did  
12 that. But as information came out, they started a  
13 splash with like a coordinated campaign where it  
14 was money that was put out to this and they had a  
15 manager person that was paid, Joel Searby. He has  
16 been arrested, but he --

17 MR. ARNOLD: I'm going to object as being  
18 irrelevant.

19 CHAIR GAY: Go ahead. And if you can make  
20 sure it sticks to the question of how this came  
21 about.

22 MS. CERTAIN: So it was mentioned with  
23 Searby as well as another paid employee was hired  
24 to lead this charge. And it was mentioned that  
25 they were dissatisfied. It seems that there was

1 a small group of people that were dissatisfied.

2 And they said they came together as  
3 grassroots, but it was documents that came out  
4 that that wasn't the case. And when they  
5 presented the case to the community, it was just  
6 kind of shifting. Everything was shifting as to  
7 why they were going.

8 But like I said, I'm not sure of it being a  
9 true grassroots campaign because of the paid  
10 people and the amount of money that they started  
11 and involvement through public records requests.  
12 We've proven rather, or found out through public  
13 records requests of the City Government being  
14 involved in that.

15 I'm hoping I answered your question clearly.

16 CHAIR GAY: Any other questions?

17 MS. CERTAIN: I'm sorry. One other thing.  
18 The City of Newberry, the school is not isolated  
19 in a sense. Years ago it was a rural school. It  
20 was built as a rural school. But the western  
21 part of the county is highly developed. There's  
22 a lot of growth in that area, so the school is no  
23 longer in an isolated area.

24 Newberry is one of the municipalities in our  
25 county that is indeed growing. That is why myself

1 as a Board Member that lives in that area really  
2 came out and took a stance against -- to work  
3 against this conversion of the charter because  
4 removing this asset from that -- it was presented  
5 as just being a school just for children in the  
6 City of Newberry. And that is not how the school  
7 is -- the zone for that school is made up.

8 There's students outside of the City of  
9 Newberry that currently attend there. It does  
10 serve areas from the south side of our county,  
11 like southwest up to Archer over to the northwest  
12 side, some going into Alachua as well as the  
13 western part of our county. So it's not an  
14 isolated school. It's actually in a very growing  
15 municipality part of our county.

16 CHAIR GAY: Thank you.

17 Any other questions from the Members?

18 MS. PAULINE: Yes. As a followup on the  
19 question from the Applicant, I'm still not clear  
20 on -- I think it was mentioned that there were  
21 some services or some programs that the School  
22 felt that it wasn't getting from the District  
23 which may have been the impetus for the  
24 conversion, but I'm not clear.

25 And even reading through the application, I

1 saw a lot on STEM, but I wasn't sure if it was a  
2 curriculum issue, if it was a capacity issue.  
3 There was no one area pointed to as to the impetus  
4 for this conversion.

5 Can some clarity be provided?

6 MR. ARNOLD: Yes, Ms. Pauline. Section 2  
7 and Section 15 of the application addresses the  
8 idea that they wanted to have local control, that  
9 they had been promised new facilities by this  
10 Board Member who just addressed a moment ago, and  
11 it hasn't occurred.

12 And it's really the number one and most  
13 fundamental idea of School Choice, is that the  
14 parents has -- the parents for whatever reason  
15 have the opportunity to do this.

16 Newberry is a growing area, but it is still  
17 very much isolated in terms from the rest of the  
18 county. It's very far in the county itself away  
19 from Gainesville. And they believe that the  
20 decisions were being made at the School District  
21 level, which I totally understand that School  
22 Districts have an impossible job. They have to be  
23 everything to everybody.

24 These parents decided that they would like to  
25 have this school run on a local level by a

1 governing board that's answerable to the  
2 community, not as part of a larger district to  
3 have to do that. And that's their right to do  
4 that.

5 So that was the main impetus for why they did  
6 it. And that they thought that they could support  
7 the teachers better. They could give them raises.  
8 That's all in the application as well. But the  
9 decisions that would be made for their elementary  
10 school, which the parent vote was overwhelmingly  
11 in support of, was that they wanted to have those  
12 decisions made on a local level, and that's why  
13 they did this.

14 MS. PAULINE: And I'll just ask one more  
15 question as a followup, if you don't mind, to the  
16 District.

17 I know in Miami when we're faced -- because  
18 we, as you know, are a very large geographic  
19 district and of many, many municipalities and  
20 many, many schools that often when cases such as  
21 this happen, we tend to develop interlocal  
22 agreements with smaller advisory committees.

23 Was that not an option that was entertained  
24 prior to going the conversion route?

25 MS. CERTAIN: Thank you. Tina Certain,

1 School Board Member.

2 We did not -- they didn't come to us and ask  
3 us for any type of interlocal agreement prior to  
4 the vote.

5 And I will back up. This was an A school  
6 prior to the vote. I also want to mention that  
7 our community approved a half cent sales tax in  
8 2018. A project list was developed.

9 We heard the concerns and we saw that the  
10 school was overcrowded, attempted to change our  
11 project list. And that was avidly condemned by  
12 the then Mayor and Commission saying that they had  
13 voted on a list.

14 So the District, when it received the sales  
15 initiative and that we would have funds to be able  
16 to address some of our capital needs, we were  
17 willing -- the superintendent and the then Board  
18 was willing to try to change the list, the order  
19 of the list that had been promised to the  
20 community because the community had -- a list had  
21 been developed and shared with our accounting as  
22 the sales tax initiative was being marketed. So  
23 we were trying to address those things, but they  
24 rejected that change and so this came up.

25 Also, I'm not against School Choice. Parents

1 do have that option and that does exist. The  
2 issue that I had is taking an asset out of the  
3 District's control and for access to the community  
4 because it was said in their initial documentation  
5 and communication with the community they wanted a  
6 school just for their city. And that is not how  
7 that school -- where it's located in the zone.

8 There was also contention by the community of  
9 how you become part of this board. The board was  
10 already set. Initially it was just all Newberry.  
11 Then they said they would consider some people  
12 from an abutting municipality, Archer.

13 But it was like they had a board already in  
14 place and named, no criteria for how you become a  
15 part of the board. That was circulated to others  
16 who were not in alignment with that.

17 So, yes, there is School Choice. And there  
18 are rules in the State Statute that allow that.  
19 And if you want parents to have control, which  
20 parents do you want to have control, which parents  
21 will have input into that because only the  
22 students who -- parents of students who currently  
23 attended that school had a vote in that.

24 And everybody that attended the school did  
25 not necessarily want that. A lot of people

1 thought if they abstained from voting that that  
2 was a no vote. And that wasn't necessarily how  
3 that was considered the way the rule is written  
4 right now. It said 25 -- 50 percent of people had  
5 to participate.

6 So you really could have this school  
7 converted with as little of 25 percent of the  
8 student population. And currently right now in  
9 that community based on the capacity, only K  
10 through four attend that.

11 So I think that the folks in the community  
12 have a DAC. They have a District Advisory  
13 Committee. They have a PTA. They have a SAC  
14 Committee. And there are ways that they can  
15 communicate and interact and work with the  
16 District. They have a principal that has been  
17 from the community.

18 I'm just not sure of why they felt they could  
19 not work with the District. This is also part of  
20 the county where they have attempted to kind of  
21 break off from the county. We've done, and the  
22 District before I got there, did everything that  
23 this community has wanted and has tried to do  
24 within reason and with the resources that we have.  
25 Thank you.

1 CHAIR GAY: Thank you.

2 Did the Applicant need to respond?

3 MR. ARNOLD: The notion of attendance zones  
4 and other things like that brought up by  
5 Ms. Certain are going to be negotiated between  
6 the parties as provided for in statute. So  
7 there's other misstatements and there are 92  
8 concerns that actually they still continue to  
9 apparently misapprehend.

10 The governing board has a process for  
11 bringing in new members. The members who were on  
12 the initial board, as you often know, are not the  
13 board that actually runs the school as you go  
14 along, and there's a community to pick new people  
15 there.

16 The idea that 25 percent of the parents --  
17 the math just doesn't work as the math doesn't  
18 work in other things that they contend before you  
19 today.

20 And finally is this, yes, there was an offer  
21 made to the District but to the community that was  
22 rejected because it was insufficient. It was an  
23 insufficient amount of a sales tax being taken  
24 together.

25 So they did their homework. They looked at

1           it. They looked at the relevant rules, including  
2           Subsection 18 of the Charter Statute, which I went  
3           over with them before they started this, to talk  
4           about the allocation of money has to go to them  
5           and how these things have to be done and that it's  
6           not being properly done and so therefore they have  
7           that.

8           And, also, they have the ability to do local  
9           fundraising when they are the governing board, and  
10          that they had community support that want to do  
11          this. This is a facility that is older than I am,  
12          okay, and it is insufficient. These things are  
13          built, as you know, for a 40-year lifespan, and it  
14          has exceeded that lifespan.

15          Newberry was feeling rejected. And it does  
16          not actually matter why. I certainly understand  
17          Ms. Pauline's question for wanting to know why. I  
18          think maybe you got a flavor of it.

19          But the conversion charter school, the vote  
20          of the parents was more than 50 percent. It was  
21          significantly more than 50 percent. It wasn't  
22          some kind of 25 percent threshold.

23          And then finally, at the end of the day,  
24          Ms. Certain's -- many of her complaints are  
25          basically about the decisions that have been made

1 by the Legislature. We have to live within that.  
2 So that's what the parents decided to do, is they  
3 exercised their right to convert this school to be  
4 operated and controlled locally in their community  
5 and not from downtown Gainesville.

6 CHAIR GAY: Any other questions from  
7 Members?

8 MR. GARCIA: Yes.

9 CHAIR GAY: Go ahead.

10 MR. GARCIA: And this is for the school.  
11 Can you describe your relations as compared, for  
12 example, we have charter schools that are managed  
13 by management companies such as Charter Schools  
14 US, Academia are some of the most known ones.  
15 Others, like small schools like mine, we contract  
16 with an HR company called Extensis, and we get a  
17 lot of services from them. And in the process of  
18 having to terminate an employee, I must consult  
19 with them so that I follow the law and I don't  
20 get myself in trouble.

21 How does that compare with the relationship  
22 that you will have with the City?

23 MR. ARNOLD: What's proposed is precisely  
24 what you talked about, Dr. Garcia. It's the same  
25 thing.

1           The City within there has this expertise.  
2           They have an HR department. They have other  
3           things like that. They have public employees.

4           Running a public employee system is different  
5           than running a private employee system. There's  
6           other things that are there. They have  
7           experienced personnel who do this. They have  
8           general counsel who can assist them with this.

9           It was a prudent thing for them to do. It's  
10          literally down the street for them, and it's  
11          people that they know, so that's why they  
12          contracted with them.

13          So the answer to your question is there's no  
14          difference at all.

15          MR. GARCIA: Thank you.

16          MR. HARMON: As to that question, I think  
17          that one of the differences I guess I would  
18          articulate is that in the application itself, it  
19          doesn't just identify the City of Newberry as a  
20          management company that's being contracted to  
21          provide services. What the application actually  
22          does is list the City of Newberry as a partner  
23          organization.

24          It says that NCS is partnering with the City  
25          of Newberry to provide a high quality education to

1 students attending in the area and bring local  
2 control to the elementary school. The City has  
3 supported the charter conversion initiative from  
4 its inception when it again goes back to the issue  
5 of when did this arise, was this grassroots, and  
6 believes that it will benefit Newberry and the  
7 surrounding area to have an elementary charter  
8 serving families in the area that is governed by a  
9 body comprised of members of the community.

10 And I recognize the same application says  
11 that the City will not have any direct role in the  
12 governance of the school. That's the purpose of  
13 the 501(c)(3).

14 But I will also point out that in the  
15 application, the organizational chart for the  
16 school has the City of Newberry above the  
17 principal, the assistant principal, the school  
18 counselor, the head custodian, instructional team  
19 lead, support staff, custodial staff,  
20 instructional staff, and in fact right there next  
21 to the School Advisory Council. So it's not just  
22 a management company is what the School Board's  
23 position would be.

24 CHAIR GAY: Thank you.

25 Any other questions from the Members? Kia,

1 did you have a question?

2 MS. SWEENEY-SCOTT: I do. I just want to  
3 piggyback on what Attorney Arnold mentioned  
4 about, you know, schools when they put in an  
5 application and they do have a board set up and  
6 at times they may be a founding board.

7 But is there going to be an opportunity for  
8 City employees to become board members?

9 MR. ARNOLD: Thank you for your question.  
10 There's ethics laws that prevent that, just like  
11 there's ethics rules that prevent, you know, a  
12 certain level of School Board Members from being  
13 on a charter school board, because of the fact  
14 that they would have a relationship with them,  
15 1002.33(3) and (7) I believe would prohibit that.

16 I also just want to mention that I completely  
17 disagree with the characterization of (inaudible)  
18 the City is on the side of it and the fact they  
19 are the HR. They have no direct control over the  
20 school.

21 MS. PAULINE: I have one more question, if I  
22 may.

23 CHAIR GAY: Go ahead.

24 MS. PAULINE: So I guess I'm a little  
25 confused. This is a question for either side

1 because perhaps I missed it in the application.

2 Is there a chart or a draft agreement or some  
3 kind of articulation of the roles of the City  
4 versus the role of the governing board to create  
5 that delineation of responsibilities?

6 I read a little bit here and I read a little  
7 bit here and then I listened to the capacity  
8 interview which kind of has different information,  
9 so I'm just not clear.

10 Is there something that I can point to that's  
11 written that would give me a better picture or  
12 understanding of the lines of engagement?

13 MR. ARNOLD: Thank you, Ms. Pauline. Shawn  
14 Arnold.

15 That agreement was being created after the  
16 loan agreement, both of which were subsequent to  
17 the application. So I think it's outside the  
18 record of what you have today on that issue, so  
19 that was not delineated.

20 But clearly I would not allow my client, the  
21 school, to engage with the City in any way which  
22 would go over the independence of the school or  
23 engage anything like that. So that agreement was  
24 not -- it was outlined what the understanding was.

25 There was comments from the then City Major

1 as to the understanding of what that was going to  
2 be, and it will conform with Florida law. There's  
3 not going to be any control that's going to be  
4 exercised by the City or my client that's  
5 improper.

6 MS. PAULINE: As a followup before the  
7 District answers, Mr. Arnold, was there any  
8 conversation had at the City level, whether it be  
9 at a City Commission meeting about kind of what  
10 this looks like that could have been submitted as  
11 a part of minutes or resolution or anything like  
12 that?

13 MR. ARNOLD: I don't know that it got to  
14 that level of discussion. There was a  
15 discussion. I don't know if there was a vote on  
16 it, if there was a board briefing.

17 May I have just a moment on that?

18 CHAIR GAY: Yes.

19 MR. ARNOLD: Pauline, to your question, I'm  
20 going to call on the current City Manager and  
21 Mayor at the time, Jordan Marlowe, to answer your  
22 question.

23 MR. MARLOWE: Good morning, Board Members.  
24 Jordan Marlowe, City Manager currently, ex-Mayor.

25 If the question is about an operating

1 agreement, there was a brief summary of that  
2 presented to the Commission to delineate those  
3 points specifically, but it was very brief. But  
4 the operating agreement was in the backup material  
5 that they all get ahead of time.

6 Does that answer the question?

7 MS. PAULINE: I didn't quite hear everything  
8 you said. Did you say there was a briefing given  
9 to the Commission or a briefing provided to the  
10 Applicant?

11 MR. MARLOWE: There was a brief -- both is  
12 the answer to the question. There's was a brief  
13 summary presented to the Commission at a  
14 Commission meeting before they voted on the  
15 operating agreement.

16 The operating agreement itself was provided  
17 to the Commission in the backup materials so that  
18 they could see the delineations specifically  
19 between the City of Newberry and the NCS Board.

20 Does that answer your question, ma'am?

21 MS. PAULINE: I think so.

22 CHAIR GAY: Does the School Board need to  
23 respond?

24 MR. HARMON: Yes. I think to the first  
25 question, the short answer is no. There was

1 nothing else in the application that delineates  
2 roles and responsibilities of the City as it  
3 relates to its involvement with the charter,  
4 aside from the language. I read some of the  
5 language. But there's not like a standard  
6 set-aside services agreement type document.

7 As to the second question about whether the  
8 City Commission addressed any of the issues  
9 regarding the charter, I have not had enough time  
10 to look back on all of it. All I can tell in the  
11 very short period I've been standing here is it  
12 did look like on the agenda for the City  
13 Commission meeting in May of 2024 was an agenda  
14 item just relating to Newberry Public School  
15 Charter update.

16 I don't know what was discussed. That's not  
17 before the Commission today unfortunately, so I  
18 cannot answer that question with any certainty.

19 CHAIR GAY: Any other questions from the  
20 Members?

21 MR. MORENO: Just one quick one, I think for  
22 the school. Is there any provisions in the  
23 service agreement where if the nonprofit board is  
24 dissatisfied with the services, the City can  
25 then -- can the service agreement be terminated?

1 MR. ARNOLD: Mr. Moreno, when that agreement  
2 is finalized, the answer will be yes because it  
3 has to be. That's something that has to be done.  
4 There has to be a provision to be able to  
5 terminate it, just like you would do with a  
6 management company.

7 I want to clarify, this is not a management  
8 company. Management companies, as set forth in  
9 the Charter Application, you control education,  
10 you control -- you provide back office, you  
11 provide HR, you provide everything. This is a  
12 sliver of the things that it needs, which is HR.

13 SFS is doing the finance. The education will  
14 be handled by the administrators and the other  
15 people at the school.

16 So to Dr. Garcia's point earlier, this isn't  
17 CSUSA. This isn't something like that. This is  
18 not service management, which would be closer to  
19 control, but it's not even that. We're just  
20 talking about HR, such a small sliver of the  
21 things that a school needs to operate.

22 CHAIR GAY: I can't remember where that  
23 started, if you need to respond, or if it started  
24 with the School Board.

25 MR. HARMON: I think the question was asked

1 to the Applicant. I'll try to -- and I think  
2 this is responsive to the question. And I did  
3 want to highlight this because I said earlier  
4 other than the application language, there wasn't  
5 anything else addressed.

6 There was one attachment as well. It looks  
7 like it's Attachment Z, which is a November 2024  
8 letter from the City of Newberry's Mayor to the  
9 Newberry Community School just outlining the  
10 financial commitment that the City had made, which  
11 was \$2.2 million, as well as the City was going to  
12 pay the cost for the school resource officer,  
13 which was an \$80,000 per year cost.

14 And while I do recognize my colleague's  
15 comments that the contract must require and the  
16 service agreement must require the ability of the  
17 charter to terminate the relationship, there's no  
18 question about that. The issue is what happens to  
19 the financial backing plan. That relationship was  
20 terminated. That was not addressed to me in the  
21 application.

22 CHAIR GAY: Thank you.

23 Any other questions or comments, Members?

24 Are we ready to make a motion?

25 MS. PAULINE: I have a question. I'm sorry.

1 CHAIR GAY: That's okay.

2 MS. PAULINE: I'm sorry if I'm asking  
3 questions -- because I'm having difficulty  
4 hearing everything so I may be asking questions  
5 that were already asked that I just didn't hear.

6 I think I heard that there are financial  
7 commitments being made by the City for the school  
8 which includes participation in FRS, some  
9 financial backing, some support of SRO. I think  
10 there were two other things mentioned.

11 It doesn't appear to be codified or directly  
12 articulated clearly in the application, but there  
13 is definitely a relationship that -- it may not  
14 be -- and I don't know if de facto municipal is  
15 the right term, but there are a lot of similar  
16 components to what we would normally see in a  
17 relationship in a municipal-sponsored charter.

18 Am I missing something or did I mishear  
19 something because there does seem to be a  
20 relationship?

21 MR. ARNOLD: Ms. Pauline, what is missing  
22 from this relationship that you would see in a  
23 municipal charter school is that the City  
24 Commission is the governing board. That's not  
25 present here.

1           So despite the fact that there's support for  
2           the school, it's not a municipal charter.  
3           Municipal charter is very clearly delineated and  
4           codified. The City of Pembroke Pines, you know,  
5           your general area, you know, is a municipal  
6           charter school.

7           The City Commissions sit or a board or a  
8           committee of the City Commission sits as the  
9           governing board. These are five independent  
10          people who are not affiliated with the City who  
11          are the governing board.

12          So, yes, there is support from the City,  
13          which is a strength of the school, which makes it  
14          a better Applicant, but it is not a municipal  
15          charter because the governing board is not run by  
16          the City Commission.

17          MR. HARMON: All right. I'll try to speak  
18          into the microphone so I come through a little  
19          bit better.

20          To answer the question, again, I'm going to  
21          defer to the language in the application. And  
22          specifically looking at page 73 of the  
23          application, it says, "If the school is filing the  
24          application in conjunction with a college,  
25          university, museum, educational institution,

1 another nonprofit organization or any other  
2 partner, provide the following information. Name  
3 of the partner organization. Answer: City of  
4 Newberry."

5 So this isn't just the City of Newberry in  
6 kind supporting the school. It's listed in the  
7 application as being filed in conjunction with the  
8 FCS -- excuse me -- NCS as a partner organization.  
9 To not see that they're inextricably  
10 intertwined -- and I understand that there's a  
11 501(c)(3) that's a different governing board with  
12 different members, but the application, the actual  
13 document that was before the Review Commission and  
14 that's before you today, identifies the City of  
15 Newberry as a partner filing this application in  
16 conjunction with the school. Thank you.

17 CHAIR GAY: All right, Members, are we  
18 prepared to make a motion?

19 MR. GARCIA: I will make it.

20 CHAIR GAY: Osvaldo.

21 MR. GARCIA: I move that the Commission find  
22 that the application to convert Newberry  
23 Elementary School to a charter school is not a de  
24 facto municipal charter conversion application.

25 CHAIR GAY: All right. We have a motion.

1           Is there a second?

2           MR. MORENO: I'll go ahead and second.

3           CHAIR GAY: All right. Second by Richard.

4           Karen, will you please call the roll.

5           MS. HINES-HENRY: Osvaldo Garcia?

6           MR. GARCIA: Yes.

7           MS. HINES-HENRY: Richard Moreno?

8           MR. MORENO: Yes.

9           MS. HINES-HENRY: Tiffanie Pauline?

10          MS. PAULINE: Yes.

11          MS. HINES-HENRY: Kia Scott?

12          MS. SWEENEY-SCOTT: Yes.

13          CHAIR GAY: All right. Thank you. The  
14 motion carries.

15                 At this time, we will take a five or so  
16 minute break, refresh, and then we'll come back  
17 and we can talk about planning for the rest of the  
18 afternoon.

19                 (Whereupon, a recess was taken.)

20          CHAIR GAY: All right. We will get started  
21 again. I did want to make a note for everybody  
22 that I've heard that people in the back are  
23 having a hard time hearing. So if you're at the  
24 podium, please speak up, but also our Members  
25 speak up as well so that everyone can be heard.

1           And, Tiffanie, can you hear us?

2           MS. PAULINE: Yes, I can hear you.

3           CHAIR GAY: Perfect. We'll make sure to  
4 speak up for you as well.

5           All right. So it is just about 11:20. I  
6 would like to try to get through two issues before  
7 lunch, if possible, so I'm going to try to keep us  
8 moving. So with that, we will go ahead.

9           The remaining issues before us are the ones  
10 that we typically see. So before we start on  
11 those, I wanted to remind the Members that the  
12 recommendation -- and you all have been doing a  
13 great job -- the recommendation that we make to  
14 the State Board has to contain a fact-based  
15 justification. So as always, I'll ask for  
16 questions and discussion that staff will utilize  
17 in preparing the recommendation.

18           If you find that based upon the information  
19 before you, like the application, the evaluation  
20 instrument, the transcript from the capacity  
21 interview and the transcript of the Review  
22 Commission meeting, if you find that those things  
23 meet the standard for that issue, you're able to  
24 rely on that. But if you have questions or  
25 discussion that need to occur, then that's really

1 important.

2 My role is to make sure that the Commission  
3 Members are comfortable and your questions are  
4 answered and that we have enough information to  
5 make a recommendation to the State Board.

6 All right. I think I said at the top of this  
7 that I would give eight minutes for each party to  
8 go through the merits arguments, so we'll go ahead  
9 and do that. And then after that, we'll go issue  
10 by issue with questions and a vote on that.

11 So we'll start with the School Board for  
12 eight minutes. And when I say the merits issues,  
13 those eight that I identified earlier. Let me get  
14 my timer. My apologies. Ready when you are.

15 MR. HARMON: Thank you. Is that okay  
16 volume-wise for everybody?

17 (No response.)

18 MR. HARMON: No nods?

19 CHAIR GAY: Tiffanie, can you hear  
20 Mr. Harmon okay?

21 MS. PAULINE: Yes, I can hear him.

22 MR. HARMON: Okay. Good. I just wanted to  
23 make sure. I'll try to talk loud the entire  
24 time.

25 I know we've been allocated eight minutes.

1 I'm not sure we're going to need the entire eight  
2 minutes. Frankly as we go through each of the  
3 issues, I think kind of restating the argument  
4 that we raised, that the School District raised on  
5 the issue of the merits was not an attempt to  
6 reweigh the evidence. The issue is that the  
7 evidence wasn't waived.

8 That is what our position has been in our  
9 initial brief is we have this responsibility to  
10 complete an evaluation form and to provide that to  
11 the institute for consideration.

12 We received, if I recall, the application  
13 sometime in November -- sorry, not the  
14 application -- the documents in November. And  
15 over the Thanksgiving break and Christmas break is  
16 when District personnel were able to compile their  
17 input, their thoughts. And I've heard them  
18 characterized today as factually and legally  
19 incorrect, those 92 concerns that were listed.

20 Whether they were factually correct or  
21 legally sound is a great question because the  
22 reality is if you review the record before you,  
23 those concerns were not addressed in their  
24 entirety. So to go through all of those different  
25 areas today and if the Applicant is permitted to

1 address the issues that were raised by the School  
2 District, our position would be that it's too  
3 little, too late.

4 The responsibility to review the District's  
5 concerns first laid at the feet of the institute,  
6 which the rule that guides the institute required  
7 there to be specific reasons identified addressing  
8 the concerns. As I explained in our opening,  
9 there was one sentence allocated to it.

10 So to suggest that there was a rigorous  
11 objective review of the application, while it  
12 sounds great is not actually supported by the  
13 record evidence. Again, whether the Board's  
14 position is right, wrong, indifferent, petty,  
15 material or immaterial deserved attention and  
16 deserved a response to that. A single sentence in  
17 a summary document does not address those  
18 concerns.

19 And if the response to that is to then go  
20 watch the capacity interview, just ask if you  
21 wouldn't mind putting those 92 concerns that were  
22 identified out in front of you, watch the capacity  
23 interview, and then ask yourself whether the  
24 District's questions were addressed.

25 That recommendation that was provided by the

1 institute -- and I applaud them for their work. I  
2 know it's got to take a lot of time to go through  
3 that, a lot of information. At the same time, the  
4 District also put a lot of time and a lot of  
5 information.

6 If you review beyond the summary document  
7 that was provided by the institute where the  
8 institute goes through each of the areas, I  
9 believe there were a couple of concerns noted, but  
10 none of them were the School District's concerns.

11 Fast forward to the actual Review Commission  
12 meeting, the same issue. If you read the  
13 transcript that is contained within the record  
14 that was submitted by the appellee, in this case  
15 the Applicant, go through that.

16 The Chair's opening comments to the Review  
17 Commission meeting was that they needed to ask  
18 probing questions to make a very important  
19 decision that day. And it is an important  
20 decision.

21 But when you review the actual transcript  
22 from what the Commission discussed, I ask you to  
23 identify during that meeting where the 92  
24 concerns, good, bad, indifferent, immaterial or  
25 not, were actually addressed by the Commission and

1           responded to. The one-and-a-half page letter that  
2           the Commission submitted approving the application  
3           likewise summarily dispensed with the School  
4           District's concerns.

5           So our position as it relates to today as we  
6           go through each of the issues, admittedly we did  
7           not know there was going to be such a meaty agenda  
8           in order to go through each of those items, but  
9           we're prepared to do so. But I think in the sake  
10          of time, what our position is and always has been  
11          is that the decision of the Review Committee, the  
12          Review Commission was required to be based on  
13          competent substantial evidence.

14          And absent from the record before you is  
15          anything to indicate that the concerns were  
16          answered. That's the record you have.

17          The committee is not to go create a new  
18          record today, going through each of those  
19          concerns, address the School Board's issues, allow  
20          the Applicant to respond to those issues and why  
21          those issues are or are not appropriate under the  
22          law or based on fact again. Again, that time and  
23          that ship has sailed.

24          So ask yourself when we go through these  
25          issues and you are taking each of them up for vote

1 and you're entertaining the motion, the question  
2 is does this record that is before you today  
3 contain competent substantial evidence that the  
4 application should have been approved. That's  
5 your main question.

6 But when you answer that question, ask  
7 yourself or direct yourself to the record where  
8 any of the concerns that the District identified  
9 were addressed.

10 And so as not to broadbrush it, I will say  
11 there were a couple of concerns. If I recall  
12 during the institute interview, there was  
13 discussion about the facilities. There was  
14 discussion about some transportation. There was  
15 also 25 minutes of the hour-and-25-minute meeting  
16 devoted to the involvement of the City.

17 So I just think it's completely unfair or not  
18 reflective of how this process should work for  
19 there to be a one-hour interview devoted to the  
20 merits of this and then a pretty quick Commission  
21 meeting where the board's concerns were truly  
22 summarily dismissed. Thank you.

23 MR. ARNOLD: We are prepared to discuss any  
24 of the concerns in terms of the different  
25 sections as we would be at any one of these

1 meetings and so we prepared large books and other  
2 things to go section by section today.

3 What I heard a lot of what Mr. Harmon's  
4 comments were policy. The statute says that the  
5 District gets input into this and that they are  
6 allowed to present comments.

7 The legislature has created an alternate  
8 place for charter schools to apply to, and it  
9 stands. There's never been a challenge to it.  
10 And it's an entity.

11 So where would -- and they were given a  
12 chance to get input. But when they get input --  
13 and I disagree with this -- that is false in terms  
14 of the law, that is incorrect in terms of the  
15 fact, there's nothing in the statute that says  
16 that they have to address those issues. There's  
17 nothing that says that those things need to be  
18 applied.

19 And at the bottom, the record before you to  
20 determine whether there's competent substantial  
21 evidence just as if we were applying to either of  
22 the two Districts here today or any of the 67  
23 counties in the state is that the record is the  
24 application. Is there competent substantial  
25 evidence in that application to say that it meets

1 the standards?

2 And FCI, and again the folks who know charter  
3 school law and actually operate these schools went  
4 through it. And it is a rigorous standard. And,  
5 again, point out that this is the only one that's  
6 been approved. That they did find that it met all  
7 of the different standards. In fact, it met a  
8 partially meet that they said it was approved.

9 So the idea that they weren't heard, the  
10 statute doesn't provide that they get anything  
11 other than input. And had they given -- in other  
12 situations and other applications where the  
13 District presented comments that were legitimate,  
14 I have seen that those things were accepted and  
15 that they were followed up on.

16 But when you put in things like it's unclear  
17 how you meet FRS or how you do things like that,  
18 the FCI is not under the obligation nor is the  
19 CSRC to address those issues. And it is not a  
20 question of whether -- so I heard words like it  
21 was unfair and other things like that.

22 And I'm not unsympathetic to those concerns,  
23 but that's not what you're here to do today.

24 You're here to do today to say that the Charter  
25 School -- is there competent substantial evidence

1           that that application meets all the standards that  
2           are there, and then is there good cause to deny  
3           the application. The answer to both of those is  
4           neither.

5                     And I think that there's a lowering of  
6           expectations as to what the comments are going to  
7           be. And it shouldn't be. If we're going to  
8           consider their input and we bring everybody  
9           together, we're going to do that today if you want  
10          to see whether the FCI should have addressed it.

11                    And when you see that it's replete with wrong  
12          factual items as we go section by section, those  
13          comments that the districts are going to put under  
14          constraint and they're going to get a chance to  
15          have their day in court in essence and be  
16          addressed. I don't think that we're going to find  
17          that there's anything in there that says that it  
18          does not meet.

19                    Again, at the bottom of the record is the  
20          application itself. It's an excellent  
21          application. It stands for itself.

22                    And we're happy to take an examination of it  
23          and go through it. And you're going to find that  
24          it does meet, that the District's comments are not  
25          legitimate and that they do not negate the fact

1 that there's competent substantial evidence. And  
2 that's really what I want to get to.

3 The idea that their standard and what they  
4 have to prove is what the comments were from the  
5 Charter School Review Commission do not amount to  
6 competent substantial evidence. The way that they  
7 frame their arguments is we weren't listened to,  
8 we weren't listened to.

9 They did not attack the findings, and they're  
10 not even saying that today. They're saying we  
11 weren't listened to. Well, that's not the way  
12 this works. You have to actually address what  
13 they found and say that's not competent  
14 substantial evidence.

15 They didn't do it in their brief. It doesn't  
16 sound like they're going to do it today. So I  
17 think at the end of the day, you're going to have  
18 no choice but to vote that the school met each one  
19 of the standards through each one of the sections.  
20 And we look forward to that conversation. Thank  
21 you.

22 CHAIR GAY: All right. Thank you. So that  
23 moves us into the first issue regarding student  
24 performance, assessment and evaluation.

25 Members, do you have any questions for the

1 parties on this section of the application?

2 MS. PAULINE: Can I ask a question before we  
3 jump into each section, please?

4 CHAIR GAY: Yes, ma'am.

5 MS. PAULINE: Just from a general  
6 standpoint, we heard the opinion of the District  
7 and we heard the opinion of the Applicant in  
8 terms of how we should, I guess, opine on this  
9 process. I would love to hear from legal counsel  
10 in terms of what our expectations should be.

11 This is very different than what we've done  
12 before. Usually we get an appeal of an  
13 application of a school that is brand new. We  
14 don't get a conversion that has existing students,  
15 with existing budget, with existing factors, nor  
16 do we have the ability of the local district  
17 opining on an alternate authorizer's opinion.

18 So I just would love to hear from an  
19 objective perspective as the Commissioners on this  
20 panel what our anticipation or expectation should  
21 be when we're doing this.

22 CHAIR GAY: That's a great question. Did  
23 you want to open it for legal counsel? Is that  
24 right?

25 MS. PAULINE: Yes, ma'am.

1 CHAIR GAY: Jamie, are you prepared or do  
2 you need a few minutes?

3 MS. BRAUN: If I understood the question  
4 correctly -- can you hear me?

5 MS. PAULINE: Vaguely.

6 MS. BRAUN: Okay. I don't know that I can  
7 bring my computer over here, but let me come a  
8 little closer and see if I can do this without my  
9 notes.

10 Can you hear me now?

11 MS. PAULINE: Yes, I can.

12 MS. BRAUN: Okay. So I think your question  
13 was how you should proceed and what the standard  
14 is on this kind of unique appeal that we're  
15 seeing today; is that right?

16 MS. PAULINE: Yes, ma'am.

17 MS. BRAUN: Okay. I think you're right,  
18 this is a unique situation with an appeal where  
19 an application was approved below by the Charter  
20 School Review Commission. Usually we're looking  
21 at a denial, so it is a little different.

22 But our opinion is that the Charter School  
23 Review Commission Statute says that decisions of  
24 the Commission can be appealed as provided in, I  
25 believe it's Section (6)(c) of the Charter School

1 Statute 1002.33. I don't have my computer in  
2 front of me, but I believe that's what it says.  
3 And that is the Charter School Appeal Commission  
4 section of the statute.

5 So we read that to mean that the same  
6 procedures under your normal way of work for the  
7 Appeal Commission will apply to this appeal from  
8 the Review Commission and that the standard is  
9 whether you had -- whether there is competent  
10 substantial evidence to support approving the  
11 application.

12 I did hear from the parties some opinion on  
13 whether or not -- or some discussion as to --

14 CHAIR GAY: I'm sorry. That was the timer  
15 from earlier.

16 MS. BRAUN: I did hear earlier some  
17 discussion from the parties about the standard  
18 being -- you know, you look at the application  
19 and does it contain enough in that application to  
20 approve or deny.

21 As many of you have been in this Commission  
22 before know, we do have case law from I think it's  
23 the Fifth DCA in the Volusia County appeal. I can  
24 get the cite when I get back to my computer. But  
25 basically what it said was that this Commission

1 can take into account information outside of the  
2 record. It is called an Appeal Commission, but it  
3 is a bit of a misnomer.

4 We already have a different entity called a  
5 Review Commission. It's very much a review where  
6 you can take into account new evidence. You can  
7 take into account new information from the  
8 parties, new documentation. You can ask  
9 clarifying questions, and then make your decision  
10 based on that.

11 You are not limited to the record on appeal  
12 in the way a legal appellate case is. I think  
13 between those two things, competent substantial  
14 evidence to approve and the fact that you can take  
15 into account new information. I hope that answers  
16 your question.

17 MS. PAULINE: Yes, it does. Thank you very  
18 much.

19 MS. SWEENEY-SCOTT: I have a question I  
20 guess directed to legal also.

21 MS. BRAUN: Okay. I'll try.

22 MS. SWEENEY-SCOTT: So on the form that  
23 school districts have to use for input, it says  
24 the Commission must consider such input in  
25 reviewing the application. So what does that

1 really mean?

2 In this instance, we're at 92 concerns. Is  
3 the expectation that FCI, on behalf of the Review  
4 Commission, would address those concerns during an  
5 interview?

6 MS. BRAUN: I believe the statute does --  
7 and I think that's where you're quoting from --  
8 the form quotes the statute for the Review  
9 Commission. And it does state that the  
10 District -- they have to take into account or  
11 consider the input from the District in  
12 evaluating the applications.

13 How they do that is up to FCI and the Review  
14 Commission. You know, they can review the 92  
15 concerns and decide that they don't share those  
16 concerns and they make the decisions of what  
17 they're going to bring up at the capacity  
18 interview.

19 I don't know that there's a hard line I can  
20 give you where they have to address every single  
21 one of them in writing or something like that. I  
22 think it's up to FCI and the Review Commission  
23 when they are doing their review of the  
24 application, the capacity interview, all of the  
25 documentation they have before them how they're

1 going to do that and what they deem appropriate or  
2 important to ask the parties.

3 MS. SWEENEY-SCOTT: I just ask that question  
4 only because, you know, the way things are now,  
5 you know, the application is what it is. And I  
6 just personally believe that anybody can write a  
7 good application at this point, you know, with AI  
8 out there.

9 And to me, the meat of approving is the  
10 questions that you ask. So that's why I'm just  
11 asking is it something -- you know, when we're  
12 providing feedback, you know -- we've had to do it  
13 four times in Orange. We've had a couple go to  
14 FCI. And we put a lot of thought into the  
15 feedback because we hope that some of that  
16 information is shared also when they're reviewing.

17 But just in listening to the transcript, I  
18 didn't believe that a lot of the issues or even  
19 half of the issues were brought up. That's not to  
20 say that those issues were important or weren't.  
21 But that's why I was asking about what the  
22 expectation is.

23 CHAIR GAY: I think they just have to  
24 consider. And what consider looks like to them  
25 is not something that --

1 MS. SWEENEY-SCOTT: There's no definition of  
2 that.

3 CHAIR GAY: Right.

4 MS. BRAUN: And if there's issues that, you  
5 know, a party believes were not adequately  
6 addressed below, this is the opportunity to get  
7 them addressed and to make sure that a thorough  
8 review was done of those issues.

9 CHAIR GAY: And we can come back to our job  
10 for the State Board is to provide that fact-based  
11 recommendation so that they have the information  
12 before them. They might agree with us. They  
13 might not agree with us. But at least we've got  
14 the information out there.

15 MR. GARCIA: For clarification purposes, the  
16 Florida Charter Institute solely evaluated the  
17 application on its merits without looking at what  
18 the District did? I mean, it would appear to me  
19 that would be the most appropriate way, just to  
20 look at the merits of the application, but I need  
21 clarification on that.

22 CHAIR GAY: I think -- and stop me if I'm  
23 going --

24 MS. HINES-HENRY: Can you speak up? They  
25 can't hear.

1           MR. GARCIA: Okay. I'm looking at the  
2 comparison of that table of the Florida Charter  
3 Institute versus the District evaluation of the  
4 application. My question is does the Florida  
5 Charter Institute just look at the application  
6 based on its merits strictly or do they also look  
7 at what the District stated on their opinion?

8           CHAIR GAY: Jamie, do you have anything?

9           MS. BRAUN: I'm sorry, I can't even access  
10 the documents right now. You might need to take  
11 a break and I can look at it.

12          CHAIR GAY: All right. If counsel for the  
13 parties would like to speak to that, they  
14 certainly can while we are working on looking at  
15 that.

16          MR. HARMON: I think I can answer it.  
17 Florida Administrative Code Rule 6A-6.0792  
18 Subsection (5), which is the application review  
19 section, Subsection (e) says that "The institute  
20 must consider input from the district in which  
21 the proposed charter would be located as  
22 described in paragraph (4)(c) of this rule."

23          And then later in Section (6), which is the  
24 recommendations to the Commission section of the  
25 rule, Subsection (b) says, "With its

1 recommendation, the institute must also submit to  
2 the department a summary document describing the  
3 institute's analysis of the application and  
4 addressing any specific concerns asserted by the  
5 proposed sponsor."

6 MR. GARCIA: Thank you.

7 CHAIR GAY: So having those questions kind  
8 of addressed or discussed at this time, we can  
9 move into whether there are any questions on the  
10 student performance, assessment and evaluation  
11 section or whether the Members are prepared to  
12 make a motion.

13 MR. GARCIA: I'll make the motion.

14 CHAIR GAY: Okay.

15 MR. GARCIA: I move that the Commission find  
16 that there is competent substantial evidence to  
17 conclude that the student performance, assessment  
18 and evaluation section meets the requirements and  
19 the standards set forth in the evaluation  
20 instrument adopted in Rule 6A-6.0786.

21 CHAIR GAY: All right. There is a motion.  
22 Is there a second?

23 MR. MORENO: I'll second it. But do we need  
24 to add for the record the reason?

25 CHAIR GAY: I was going to ask that once we

1 have the motion and the second. Give me just a  
2 second.

3 All right. So we have a motion and a second.  
4 And the motion is that there is competent  
5 substantial evidence to conclude that the student  
6 performance, assessment and evaluation section  
7 meets the requirements.

8 And if we could articulate for the record  
9 what our basis is for that.

10 MR. GARCIA: The basis of my recommendation  
11 is on the fact that another review board took a  
12 look at the application and determined that the  
13 school application met the standards in this  
14 section.

15 MR. MORENO: And I would add that in the  
16 review instrument that the FCI prepared through  
17 that, in the strengths they discussed the issue  
18 that the District had and that the communication  
19 was there, so that was the basis for my second.

20 CHAIR GAY: Is there any further discussion  
21 from Members?

22 MS. PAULINE: I'm sorry. I'm having trouble  
23 hearing again. It was loud and then it got  
24 really, really low.

25 CHAIR GAY: Okay. Tiffanie, we have a

1 motion and a second. The motion is that the  
2 Commission find that there is competent  
3 substantial evidence to conclude that the student  
4 performance, assessment and evaluation section  
5 meets the requirements. And Osvaldo and Rich  
6 were providing discussion, and I was asking  
7 whether there was any additional discussion  
8 before we take a vote.

9 MS. PAULINE: Are we not entertaining any  
10 conversations from either side on this one  
11 matter? Did I miss that part?

12 CHAIR GAY: If there are any questions, you  
13 can feel free to ask them.

14 MS. PAULINE: Okay. I thought they normally  
15 present their side.

16 CHAIR GAY: We went ahead and did eight  
17 minutes for all of the merits arguments so that  
18 we could kind of get through the issues quicker,  
19 so they did present that kind of eight minutes  
20 right before -- or it might have been right after  
21 we took the break.

22 MS. PAULINE: Okay. Sorry.

23 CHAIR GAY: Yeah. But you can go ahead and  
24 ask your questions.

25 MS. PAULINE: No. I'm good.

1 CHAIR GAY: Okay. Karen, if you could call  
2 the roll.

3 MS. HINES-HENRY: Osvaldo?

4 MR. GARCIA: Yes.

5 MS. HINES-HENRY: Richard?

6 MR. MORENO: Yes.

7 MS. HINES-HENRY: Tiffanie?

8 MS. PAULINE: Yes.

9 MS. HINES-HENRY: Kia?

10 MS. SWEENEY-SCOTT: Yes.

11 CHAIR GAY: All right. Thank you. The  
12 motion carries. That will take us to the next  
13 issue. Give me just a second to make sure I'm  
14 not skipping anything.

15 All right. The next issue is whether the  
16 Applicant's exceptional student section meets of  
17 the requirements of the law and the evaluation  
18 instrument.

19 So I'll go ahead and open the floor for any  
20 questions that the Members might have, questions  
21 or comments, Members. Feel free to discuss it if  
22 that's needed.

23 MS. PAULINE: And just to be clear, we're on  
24 Issue 3, the exceptional student section right?

25 CHAIR GAY: Yes, exceptional student

1 section.

2 MR. ARNOLD: It's Issue 4.

3 MR. GARCIA: It's Issue 4.

4 CHAIR GAY: Right. It is Issue 4. I think  
5 that might be, Tiffanie, because we added the  
6 municipal charter issue.

7 MS. PAULINE: Oh, yeah.

8 CHAIR GAY: So the issues are misnumbered,  
9 but, yes, it is Issue 4, exceptional students.

10 MS. PAULINE: I do have some questions for  
11 either side. I just needed clarification because  
12 going back to the capacity interview and the  
13 comments by FCI and from the District in terms of  
14 the student counts related to pre-K ESE and  
15 depending on, I believe it was -- there was a  
16 discrepancy on what the count could be or should  
17 be. If someone could speak to that for me.

18 CHAIR GAY: Tiffanie, they're getting ready.  
19 I just wanted you to know.

20 MS. PAULINE: Thank you.

21 MR. ARNOLD: So as Ms. Braun correctly  
22 pointed out under the Volusia case, which our  
23 firm handled on behalf of a different client, the  
24 Board can consider things that had happened.

25 That unit, that self-contained unit actually

1 has been removed from the school and it's no  
2 longer there. So it's not something that we're  
3 going to have going forward. The District decided  
4 to remove that from the school. I'm not sure how  
5 to -- I think we would just probably say that new  
6 evidence has come to light that that doesn't exist  
7 anymore.

8 So I don't know if, Ms. Pauline, that answers  
9 your question or if we need address something  
10 else.

11 MS. PAULINE: If I recall correctly, there  
12 was concerns about the count as it related to  
13 facilities, and then there were some  
14 conversations about there being a unit or not  
15 being a unit. But all of that would play into  
16 the budget and the facilities, so I just was not  
17 clear on what the plan was.

18 MR. ARNOLD: May I ask a followup? Was your  
19 question solely about pre-K or was it about the  
20 total ratios through the rest of the K4  
21 population?

22 MS. PAULINE: Pre-K ESE was where I was just  
23 confused.

24 MR. ARNOLD: Oh, okay.

25 MS. PAULINE: Because one effects the rest

1 of the school population, right?

2 MR. ARNOLD: Yes, ma'am. No, I totally  
3 agree. But I think that the idea is that the  
4 pre-K has been removed by the School District.  
5 And so going forward, that's not going to be part  
6 of the plan for the school because that's already  
7 been removed.

8 So to your point, it does affect the budget.  
9 I think Mr. Durden would address that issue. But  
10 I think I've addressed her question at this point.

11 MR. HARMON: Terry Harmon, counsel for the  
12 School Board. I would just reiterate here to the  
13 Commission the issues that were identified in the  
14 input document that were provided to the  
15 institute, as well as to the Review Commission as  
16 the concerns that were identified by the District  
17 as it relates to ESE.

18 That not only includes pre-K, it also  
19 includes the ability of Newberry to meet the needs  
20 of the students' IEPs, to provide specialized  
21 transportation to students that may need it.  
22 Those were the issues that were identified in our  
23 input document.

24 And as I've explained, the reason for this  
25 appeal was that was not addressed by the institute

1 or the Review Commission at the time. Thank you.

2 CHAIR GAY: For the school, can you explain  
3 how you would address specialized transportation  
4 if it is on a student's IEP?

5 MR. ARNOLD: Yes. Thank you, Ms. Gay.

6 This was addressed not only in Section 6 but  
7 also in Section 18 that if a student's IEP does  
8 call for specialized transportation, we would  
9 follow the law as required to do that. And in  
10 addition, we also identified that there would be  
11 additional funding that would be available for  
12 those students.

13 So the fact that that transportation occurs  
14 through either a permissive agreement with the  
15 District or with another provider would be at no  
16 cost to the school. In other words, the school  
17 would break even because there's funding that's  
18 available for that. So if a child's IEP required  
19 transportation, the application is very clear. We  
20 would clearly follow that.

21 CHAIR GAY: And I think the other issue was  
22 the staffing to student ratios if they're not as  
23 projected in the application, how do you -- how  
24 could you address that?

25 MR. ARNOLD: Yeah. I'm going to let

1 Ms. Lindsey Granger, who wrote that part of the  
2 application, address that.

3 MS. GRANGER: Good morning, Commission  
4 Members. Can you hear me okay?

5 (Affirmative response.)

6 MS. GRANGER: Again, my name is Lindsey  
7 Granger.

8 There's some confusion in the response  
9 regarding ratios, what was stated in the  
10 District's comments and then some of the  
11 responses. It was related to what you typically  
12 see for class-size ratios, not what you would  
13 typically see required by an individual students'  
14 IEP.

15 So if a student's IEP required something such  
16 as a three-to-one ratio or something that we might  
17 see that requires a smaller ratio, the school  
18 would adjust and provide for that. But at this  
19 point, what was projected were what would be  
20 considered a reasonable number of staff initially,  
21 including the support of paraprofessionals who  
22 operate under the supervision of credentialed  
23 teachers to be able to implement the IEPs with  
24 fidelity.

25 The tricky part is that with any application,

1 we have to look at each IEP. Students' IEPs could  
2 have changed from last week until this week, from  
3 last year until the year where they're going to be  
4 serving the students.

5 You have to look at the population, review  
6 IEPs, determine how they would be best carried  
7 out. And the school is prepared to implement  
8 those with fidelity.

9 The other piece to that is that the schedule  
10 -- in an application, you do provide your proposed  
11 schedule, your daily schedule. You provide other  
12 information related to scheduling.

13 But what we don't have is a master's  
14 schedule. That's articulated in the application.  
15 The school intends to develop a master schedule  
16 and schedule around the needs for the provision of  
17 ESE services to be able to implement those IEPs.

18 The other factor, and I believe it's also in  
19 the District's commentary, is that the majority of  
20 the students are served in general education  
21 classes. That's in this district or throughout  
22 our state.

23 So in order to do that, there's a lot of  
24 creative ways that you can ensure implementation  
25 with fidelity and provide those services. We're

1 not having a staff member pull a student out with  
2 a one-to-one correlation.

3 So there is not a required staffing ratio  
4 such as the one that was in the comments. I think  
5 it was one to 18 or something to that effect.

6 CHAIR GAY: Thank you.

7 The School Board, did you need to -- I think  
8 I asked two questions so I didn't know if you  
9 needed the opportunity to respond.

10 MR. HARMON: I was just taking a look real  
11 fast at something. Do you mind just giving me a  
12 moment?

13 CHAIR GAY: Yes.

14 MR. HARMON: Thank you. I just had to look  
15 at something real fast.

16 Again, this is Terry Harmon. For  
17 Ms. Pauline, I know you're virtual right now.

18 I guess some of the concerns that were  
19 identified by the District, what I heard so far is  
20 that we'll follow the law and we'll make sure IEPs  
21 are implemented and if a student requires  
22 transportation then we'll provide it. I mean,  
23 that's a great answer to every single question  
24 that you'll ask is we'll follow the law.

25 But specifically what the District raised in

1 concerns, as you look at specialized  
2 transportation, for instance, there's 12 students  
3 that attended Newberry Elementary at the time that  
4 required specialized transportation. The  
5 application did not identify appropriately in the  
6 budgeting lines how aides or monitors that would  
7 need to be on those buses would be paid for. So,  
8 again, just following the law, the District's  
9 position is that is not a sufficient answer to  
10 that question.

11 The other part as it relates to ratios of  
12 students, what the School District's concerns were  
13 is based on the number of students that were at  
14 the school, that reducing the number of ESE  
15 teachers that were going to be providing support  
16 in the school would have led to an issue of not  
17 being able to meet the needs of the students and  
18 their IEPs at that time.

19 Again, I understand the we'll address it when  
20 it happens issue, but there were legitimate issues  
21 that were raised at the time that still have not  
22 to our position been addressed appropriately.

23 MR. ARNOLD: We did say that we would follow  
24 the law. And as you know, applications are  
25 dynamic. Things have changed significantly both

1 through the legislative action as well as the  
2 School District's actions that have changed  
3 things here.

4 And the law requires that if we do have  
5 specialized IEP or transportation, that there's  
6 federal funding that's available under IDA for  
7 that. So that's how that would be paid for. So  
8 it basically would be a pass-through.

9 In addition, there are paraprofessionals and  
10 others that are already on the staff that can  
11 service those needs. So, again, we've said that  
12 we will do -- the application, as you guys know,  
13 as you've reviewed tons of them, it's so many  
14 pages and you can't give every single contingency.

15 So the idea that every single thing wasn't  
16 addressed, it's easy for you to say, well, you  
17 didn't address this or you didn't address that.  
18 You can do that all day. And because you say that  
19 you're going to follow the law and you demonstrate  
20 through all of your comments that you know what  
21 the law is, that's what separates you as a good  
22 applicant. That's what this application does.

23 And, therefore, the District's speculation  
24 that under this circumstance maybe you wouldn't  
25 know what to do without being actually run through

1 the process is not competent substantial evidence.  
2 It is not good cause to turn down this  
3 application.

4 Specifically in this section that we're  
5 talking about, Section 6, if there's additional  
6 questions that you have, we're happy to stay here  
7 and answer them. But the speculation from the  
8 District that the school doesn't know how to  
9 handle this or handle that, we said that we would  
10 follow the law and we've demonstrated we know what  
11 the law is, we would do that does not turn their  
12 speculative scenarios into competent substantial  
13 evidence or good cause.

14 CHAIR GAY: Any other questions from  
15 Members?

16 MS. PAULINE: I have a question, or maybe a  
17 comment. For me, as I said earlier, it's really  
18 not about -- and this is not anything to  
19 anyone -- but it's really not speculation and  
20 this actually is the best position to be in  
21 looking at a conversion school because you almost  
22 know who the students and the employees are going  
23 to be with the exception of maybe the employees  
24 that you believe that did not sign up. And I  
25 didn't see in the application any robust plan to

1 fill any gaps related to those employees that  
2 might leave.

3 But nevertheless, this is to me the most  
4 ideal situation to build a program and a budget  
5 because you kind of like 80 percent know, you  
6 know, what your school is going to look like  
7 unless something, you know, unanticipated happens.

8 So I guess that's why I have a little  
9 concern. I mean, you have the best of both  
10 worlds. You have the District's feedback based on  
11 what it is right now. You have FCI's objective  
12 review based on the law. But there still appears  
13 to be some gaps where I think I -- that's where  
14 I'm finding a little bit of concern.

15 And just by indicating that we'll follow the  
16 law, it just seems like an easy way out as opposed  
17 to being able to say this is what the school looks  
18 like, should it continue to be this way, this is  
19 what it will yield. That's where I'm finding a  
20 little bit of heartburn.

21 CHAIR GAY: Go ahead, Kia.

22 MS. SWEENEY-SCOTT: Just to piggyback on  
23 what Tiffanie just mentioned. Yes, the school  
24 said they will follow the law. But in the same  
25 token, even as a conversion, you have an LEA,

1 right? The LEA is still going to be responsible  
2 to ensure that certain things are done.

3 So I guess that's where I don't have a  
4 concern that services will not be provided because  
5 to protect themselves, the District is going to  
6 have to intervene if there's a problem.

7 CHAIR GAY: Members, are we prepared to make  
8 a motion on the issue of exceptional student  
9 section?

10 MR. GARCIA: Okay.

11 CHAIR GAY: Osvaldo.

12 MR. GARCIA: I move that the Commission find  
13 that there is competent substantial evidence to  
14 conclude that the exceptional student section  
15 meets the requirements and the standards set  
16 forth in the evaluation instrument adopted in  
17 Rule 6A-6.0786.

18 CHAIR GAY: All right. I'm going to repeat  
19 that just so Tiffanie can hear it. The motion is  
20 that the Commission find that there is competent  
21 substantial evidence to conclude that the  
22 exceptional student section meets the  
23 requirements and the standards set forth in the  
24 evaluation instrument adopted in the rule.

25 Is there a second?

1 MS. SWEENEY-SCOTT: Second.

2 CHAIR GAY: Second by Kia.

3 Any further discussion?

4 (No response.)

5 CHAIR GAY: All right. Karen, please call  
6 the roll.

7 MS. HINES-HENRY: Osvaldo.

8 MR. GARCIA: Yes.

9 MS. HINES-HENRY: Kia?

10 MS. SWEENEY-SCOTT: Yes.

11 MS. HINES-HENRY: Richard?

12 MR. MORENO: Yes.

13 MS. HINES-HENRY: Tiffanie?

14 MS. PAULINE: Yes.

15 CHAIR GAY: All right. Thank you. The  
16 motion carries.

17 So we're going to take a pause right here for  
18 a short lunch for the benefit of the parties and  
19 the court reporter.

20 One thing that I've been asked is that if you  
21 are going downstairs, you have to be escorted by a  
22 DOE employee. I think Vicki has some in the back  
23 here for us. And then to come back up, you have  
24 to check back in and come back up.

25 You can feel free to bring your food back up

1 here. There's also a cafeteria downstairs. But  
2 if we could reconvene at 12:40. That's going to  
3 be fast, but I'm trying to get us through it.

4 Is that an agreement for everybody?

5 (Affirmative response.)

6 CHAIR GAY: All right. Thank you. We will  
7 take a short break.

8 MS. PAULINE: Can you repeat the return  
9 time, 12:40?

10 CHAIR GAY: 12:40, yes, ma'am.

11 (Whereupon, a recess was taken.)

12 CHAIR GAY: We are back on the record.  
13 Thank you all for helping make that a quick  
14 break.

15 We will just jump into the next issue, which  
16 is whether the Applicant's English language  
17 learners section meets the statutory requirements  
18 and standards in the evaluation instrument.

19 Members, I'm going to go ahead and open the  
20 floor to you for questions or discussions on the  
21 English language learners section. Any questions  
22 from the Members?

23 (No response.)

24 CHAIR GAY: If you don't have any questions,  
25 if we can just make sure to have discussion so

1           that the record reflects the decision that we're  
2           making today.

3                     Does everyone need a minute to get caught  
4           back up?

5                     MR. MORENO:  The discrepancy between the  
6           District and the school would be the District  
7           said that there wasn't enough funding there but  
8           when the FCI was added, they thought there was  
9           sufficient funding and they had it articulated  
10          there in the budget.  And then myself reviewing  
11          the budget, there is line items there for it.

12                    CHAIR GAY:  Any other comments or questions?

13                    Mr. Arnold, did you have something?

14                    MR. ARNOLD:  I was just going to ask the  
15          Chair -- I know you sat out the ground rules --  
16          that maybe if we wanted to, could we just give  
17          like a 60-second comment from our position?

18                    I mean, I would like -- there were basically  
19          two concerns that the District raised, and I would  
20          like to put that into the record, if possible, the  
21          response.

22                    CHAIR GAY:  Okay.  Absolutely.  I was trying  
23          to make sure I wasn't wasting anyone's time, but  
24          we'll make sure that both parties have a minute  
25          to address those issues.

1           MR. ARNOLD: For seven, one minute is fine.  
2           Probably 13, when we get to the budget, there  
3           might need to be a little bit more time.

4           But in any event, basically there were two  
5           concerns, and Mr. Moreno brought them up. In  
6           terms of the District had two concerns that it  
7           used. One was it said that there was no budget  
8           for a language line. But those services were  
9           encompassed in the professional technical services  
10          and supplies, other people services, as well as  
11          instructional training, so instructional staff  
12          training.

13          And then secondly about the ELL coordinator  
14          saying that it was -- it was not entirely sure  
15          what their issue was, but basically they were  
16          misinterpreting the application. The ELL  
17          coordinators would oversee the ESOL program,  
18          support the teachers, ensure compliance with the  
19          district planning coordinating professional,  
20          development.

21          There was no indication that the ELL  
22          coordinator was ever intended to serve as direct  
23          classroom instruction. And moreover, the comments  
24          in and of themselves don't -- they definitely  
25          don't negate the competent substantial evidence of

1 the finding of them. And even if either of these  
2 two were true wouldn't be good cause. Thank you.

3 CHAIR GAY: And the District, you can take a  
4 minute as well to present on the ELL issue.

5 MR. HARMON: Again, just a clarification  
6 question. So instead of the Commission asking  
7 questions, the parties are now going to make a  
8 presentation as to each item?

9 CHAIR GAY: So at the beginning, I said we  
10 would have eight minutes to cover all of the  
11 merits.

12 MR. HARMON: Right.

13 CHAIR GAY: So Mr. Arnold asked for  
14 additional time to cover the merits, which was  
15 one minute, so you can have the same amount of  
16 time that Mr. Arnold had.

17 MR. HARMON: Okay. Again, going back to the  
18 grounds that were laid out in our appeal, these  
19 are questions that should have been answered  
20 prior to today and prior to being presented to  
21 the Commission. I don't have anything else to  
22 add on our ELL concerns that were identified in  
23 our input section.

24 CHAIR GAY: Okay. Thank you.

25 All right, Members. Additional questions or

1 comments?

2 Tiffanie, did you have any questions or  
3 comments?

4 MS. PAULINE: No. I have the same question  
5 that Mr. Moreno had.

6 CHAIR GAY: All right, Members. Are we  
7 ready for a motion?

8 MR. MORENO: I move that the Commission find  
9 that there is competent substantial evidence to  
10 conclude that the English language learner  
11 section meets the requirements of Florida Statute  
12 and the standards set forth in the evaluation  
13 instrument adopted by rule.

14 CHAIR GAY: All right. We have a motion  
15 that there is competent substantial evidence to  
16 conclude that the English language learner  
17 section meets the requirements.

18 Is there a second?

19 MR. GARCIA: I'll second.

20 CHAIR GAY: All right. We have a second by  
21 Osvaldo.

22 Any further discussion, Members?

23 (No response.)

24 CHAIR GAY: All right. Karen, please call  
25 the roll.

1 MS. HINES-HENRY: Richard?

2 MR. MORENO: Yes.

3 MS. HINES-HENRY: Osvaldo?

4 MR. GARCIA: Yes.

5 MS. HINES-HENRY: Tiffanie?

6 MS. PAULINE: Yes.

7 MS. HINES-HENRY: Kia?

8 MS. SWEENEY-SCOTT: Yes.

9 CHAIR GAY: All right. Thank you. The  
10 motion carries.

11 The next issue is whether the Applicant's  
12 professional development section meets the  
13 standard. And as requested, we will permit 60  
14 seconds, if needed, on that issue.

15 MR. ARNOLD: Thank you, Ms. Gay. On this  
16 issue, and, again, for the purposes of making  
17 sure, it's basically pointing out that the  
18 District's concerns are not meritorious and  
19 that's why they weren't addressed by FCI but they  
20 did take their input.

21 The plan provides for approximately 30 hours  
22 of training on STEAM and that that is the first of  
23 a multi-year rollout of that. The appellant's,  
24 quote, "concern that the plan does not provide for  
25 substitutes" overlooks the fact that none of this

1 training actually occurs during instructional  
2 time, so therefore that was properly disregarded.

3 And the allocation for \$60,000 towards this,  
4 the District said it may not be sufficient, which  
5 is speculative and unsupported by concrete  
6 evidence. The SFS team put together the budget  
7 and stated that that would meet the amount of time  
8 that needs to be done. Many of the materials that  
9 are used for this don't cost anything, so the  
10 \$60,000 budget was sufficient.

11 CHAIR GAY: Okay. Thank you.

12 And School Board.

13 MR. HARMON: Thank you. The Applicant  
14 started by saying that the institute did not  
15 address -- or did address the issues identified  
16 by the School District, they were just not  
17 meritorious.

18 Again, I want to reiterate that that is not  
19 reflected at all in the record before you. And,  
20 actually what the Applicant said earlier was that  
21 the input provided by the school is not required  
22 to be considered.

23 So, again, we would stand by the point that  
24 none of this input from the School District's  
25 perspective was actually given the time of day by

1 the institute or the Review Committee. But as  
2 Ms. Pauline even mentioned earlier, this is not a  
3 scenario where we're talking about hypotheticals.

4 So, for instance, where it relates to the  
5 STEAM enrichment classroom and locations for where  
6 certain activities are going to be provided, the  
7 space is currently designed for 471 students, and  
8 the school is projecting to expand to 946  
9 students. That question was not answered or  
10 addressed in the 60-second overview. So that's  
11 just one example of many. Thank you.

12 CHAIR GAY: Okay. Thank you.

13 All right. Any questions or discussion from  
14 the Members on the issue of professional  
15 development section?

16 MS. PAULINE: This is Tiffanie. I have a  
17 question just for clarification.

18 CHAIR GAY: Go ahead.

19 MS. PAULINE: The STEAM component would be a  
20 new component to the school; is that correct?

21 MR. ARNOLD: Ms. Pauline, that's correct.  
22 It would be.

23 MS. PAULINE: So given that, it would be my  
24 assumption that this will be school-wide  
25 professional development because you're really

1 changing --

2 MR. GARCIA: Did we lose her?

3 CHAIR GAY: Tiffanie, are you still there?

4 MS. PAULINE: Yes, I'm here. Can you hear  
5 me now?

6 CHAIR GAY: It cut off. You had just kind  
7 of started your sentence and it cut off.

8 MS. PAULINE: Okay. Let me think where I  
9 stopped off. So if my understanding is correct,  
10 if this is a new component of the educational  
11 program, it would then require a professional --  
12 kind of a professional development overhaul from  
13 administrators down to support staff to fully  
14 fulfill, I guess the charge of this new  
15 curriculum, correct?

16 MR. ARNOLD: That's correct, Ms. Pauline.  
17 As stated in Sections 3 and 4 of the application,  
18 it would be rolled out over a multi-year period.

19 So in particular for the fact that it is a  
20 change and also that the school will in essence be  
21 changing management or oversight so close to the  
22 time in which, you know, the professional  
23 development two weeks would occur, that it's going  
24 to be done slowly over time.

25 There's an allocation for each year's budget

1 for this so it's not going to be a complete  
2 transformation, new staff, new curriculum,  
3 everything all from the beginning. They're going  
4 to start implementing portions of it during the  
5 first year, and it will over time transition to  
6 being a SEED curriculum.

7 MS. PAULINE: And the bulk of that training,  
8 did I hear you say, would happen outside of  
9 instructional time and would not require  
10 substitutes or traveling to other organizations  
11 to I guess garner additional support? It would  
12 just be all in-house, online, after school,  
13 little impact to the budget over time?

14 MR. ARNOLD: That's correct. It would be  
15 done during the two-week training. Instead of  
16 just one week, there's going to be two weeks of  
17 training at the beginning of the school year.  
18 That would be a part of the teacher's contract  
19 that they would be attending.

20 MS. PAULINE: And one more question. It's  
21 my understanding from what I've read in the  
22 articles and what I've heard in the capacity  
23 interview and what I've read in the application  
24 that this is a selling point to those families, I  
25 guess, as a way to recoup them and attract them

1 to stay.

2 Was it very clear to them that this would  
3 roll out slowly or would be immediately available?  
4 And from both sides I would love to hear a  
5 response.

6 MR. ARNOLD: There's components of STEAM  
7 that are going to be available immediately. The  
8 actual fall transition would occur to that. But  
9 for the purposes of evaluating Section 13 in the  
10 professional learning part of it, there's  
11 adequate provision for providing that training.

12 CHAIR GAY: And I'll let the School Board  
13 have an opportunity to respond to any of those  
14 questions.

15 MR. HARMON: Just to say that Ms. Pauline's  
16 questions, that good sentiments of the School  
17 Board in terms of the rollout of the STEAM  
18 Program, the professional development, whether or  
19 not there's been sufficient responses to indicate  
20 that those teachers would receive that.

21 And also I understand there's components of  
22 STEAM that are going to roll out, but I'm not sure  
23 that that's a substantive response.

24 CHAIR GAY: Thank you. Any other questions,  
25 Members, or discussion?

1 MS. SWEENEY-SCOTT: Yes. The \$60,000 for  
2 professional development, is Title II part of  
3 that?

4 MR. ARNOLD: Dr. Scott, it was allocated as  
5 a separate allocation. So the Title II funds and  
6 other things like that were planning on being  
7 retained by the school, I believe.

8 CHAIR GAY: Any other questions or comments,  
9 Members?

10 MR. MORENO: Yeah. I just want to point out  
11 for the Commission here that within the budget,  
12 there is the line item that breaks it out  
13 basically how much it is per teacher and then how  
14 much the program was there, so that's put in  
15 there. And I know exactly how much everything  
16 is, and that's a reasonable expectation of how  
17 much that would cost.

18 CHAIR GAY: All right. If there's no  
19 further questions or discussions, is a Member  
20 prepared to make a motion on the issue of the  
21 professional development section?

22 MR. GARCIA: I move that the Commission find  
23 that there is competent substantial evidence to  
24 conclude that the professional development  
25 section meets the standards set forth in the

1 evaluation instrument adopted in Rule 6A-6.0786.

2 CHAIR GAY: All right. We have a motion.

3 Is there a second?

4 MR. MORENO: I'll second it.

5 CHAIR GAY: All right. A motion and a  
6 second. Any other discussion, Members?

7 (No response.)

8 CHAIR GAY: All right. Karen, if you would  
9 call the roll, please.

10 MS. HINES-HENRY: Osvaldo?

11 MR. GARCIA: Yes.

12 MS. HINES-HENRY: Richard?

13 MR. MORENO: Yes.

14 MS. HINES-HENRY: Tiffanie?

15 MS. PAULINE: Yes.

16 MS. HINES-HENRY: Kia?

17 MS. PAULINE: Yes.

18 CHAIR GAY: All right. Thank you. The  
19 motion carries.

20 And I realized I got flipped around. So when  
21 we move to this next section, I'll have the School  
22 Board present 60 seconds, if you would like, and  
23 then the Applicant. My apologies for getting it  
24 backwards there.

25 So the next issue is whether the Applicant's

1 facilities section of the application meets the  
2 requirements of law and the evaluation instrument  
3 standards.

4 MR. HARMON: Thank you, Members of the  
5 Commission. With going first, it's a little  
6 challenging because I'm not sure what the  
7 responses to the District's concerns were.

8 So just to kind of highlight a few, for  
9 instance, on the facilities, the plan that was --  
10 the enrollment preferences or projections that  
11 were provided showed an increase in the school  
12 from 658 to 928 students over time. And the  
13 current capacity for the school is only 471  
14 students.

15 And there's been a lot of concerns today  
16 raised by the Applicant about the age of the  
17 facility and the appropriateness of the facility.  
18 And when you're talking about doubling -- almost  
19 doubling the size of the school, I would love to  
20 hear a true explanation of how that's going to be  
21 done because we didn't feel like the application  
22 appropriately addressed it.

23 And as I've referenced multiple times before,  
24 that was not addressed in any of the written  
25 orders that were submitted -- or the written order

1 that was submitted by the Review Commission.

2 CHAIR GAY: All right. Thank you.

3 MR. DURDEN: Good afternoon, Commission. My  
4 name is Matthew Durden on behalf of Newberry  
5 Community Charter School for the record.

6 Just to respond to that. The application  
7 clearly lays out that the way the school increased  
8 enrollment is over the course of the first five  
9 years. It's not immediate. And the application  
10 provides a plan for doing so. They will add four  
11 additional portables in the first four years and a  
12 fifth portable in year five.

13 In addition to that, it's worth noting and,  
14 you know, as we've mentioned multiple times here,  
15 the Volusia case controls in that this Commission  
16 can consider additional, new evidence and  
17 materials.

18 The new legislation that just passed, House  
19 Bill 1105 effective July 1 provides that any  
20 property normally inventoried to a conversion  
21 charter school must remain at the school, which  
22 means all of the portables that are there now are  
23 going to stay there when this starts operating,  
24 and, therefore, the application clearly lays out  
25 this plan. Thank you.

1 CHAIR GAY: All right. Thank you.

2 Members, any questions or comments on the  
3 facility section?

4 MR. MORENO: I just want a quick  
5 clarification because I'm not sure. When it's a  
6 conversion charter school, does the District,  
7 since it receives the capital dollars for it, is  
8 it the responsibility of the District to do the  
9 maintenance or at what point is the school  
10 required to do the maintenance?

11 MR. DURDEN: Thank you, Mr. Moreno. So  
12 under 1002.33(18)(a) for a conversion charter  
13 school, the District, the sponsoring School  
14 District is required to enter into a facility  
15 maintenance agreement with the school.

16 That has already happened. So there is an  
17 agreement in place where the District has agreed  
18 to perform the majority of the maintenance, which  
19 is another point addressed in the facility  
20 section. There was a concern about funding for  
21 the maintenance.

22 Really they were kind of neck and neck. I  
23 think the District said the average was 121,000,  
24 the budget reflected 116,000. But on top of that,  
25 yes, the School Board has already agreed to

1 perform most of the maintenance obligations for  
2 the facility.

3 MR. MORENO: But is it part of the budget,  
4 is that 75, because I think the District had a  
5 different number?

6 MR. DURDEN: Yeah.

7 MR. MORENO: Did they provide -- that's why  
8 I wasn't sure that they were responsible and who  
9 actually writes this check.

10 MR. DURDEN: Yeah. You're right, the  
11 numbers were a bit different. So the School  
12 District identified \$75,000. That really goes to  
13 kind of the heart of our response to all of the  
14 merit concerns in that a lot of them kind of  
15 misstate the application and the facts.

16 Really there are three line items in the  
17 budget that all go towards facilities maintenance,  
18 and those are accounts 79, 350, 390 and 680, which  
19 add up to \$116,000. So really they're only \$5,000  
20 off of what the District is projecting.

21 And the reason that is, is because, you know,  
22 the application was written conservatively. The  
23 budget is written intentionally conservative, you  
24 know, to ensure that the school will have adequate  
25 funding moving forward and that these facilities

1 can be maintained.

2 So even though the District has already  
3 agreed to maintain the facilities as they're  
4 required to do so under the Charter Statute, the  
5 budget nevertheless factors in these costs just to  
6 ensure that, you know, worst case scenario if we  
7 have to spend all of this money, the school is  
8 still going to be adequately funded even though we  
9 anticipate the District would, you know, perform  
10 under that facilities maintenance agreement.

11 CHAIR GAY: Does the School Board need an  
12 opportunity to respond?

13 MR. HARMON: Yes. Just one moment.

14 CHAIR GAY: Sure.

15 MR. HARMON: I guess my only question would  
16 be maybe needing clarification too because the  
17 Charter School Application indicated that the  
18 budgeted amount per year to cover maintenance  
19 costs starting in year one was \$75,547, whereas  
20 the School District which actually operates the  
21 school was paying an average \$121,500 per year,  
22 which is not a \$5,000 difference. It's about a  
23 \$50,000 difference.

24 So, again, just going based solely on the  
25 application, this is page 91, 92 of the

1 application, we can submit that that's not been  
2 addressed.

3 MR. MORENO: No. I was just looking in the  
4 budget, that line item, because you have two line  
5 items that deal with that, the 7900, 350 and  
6 7900, 390. So the 390 is part of that  
7 maintenance. So you add the two together, you  
8 get the number that they mentioned.

9 CHAIR GAY: Any other questions or comments  
10 from the Commission Members?

11 Kia.

12 MS. SWEENEY-SCOTT: I have one for the  
13 District. I know there was concern with the  
14 projected enrollment in the event that they do  
15 grow. If the school becomes a conversion school,  
16 have you redistricted it or thought about how  
17 you're going to redistrict the students, that it  
18 would not be a zoned school anymore?

19 MS. CERTAIN: Tina Certain, School Board  
20 Member.

21 So the District was looking to do rezoning  
22 prior to the conversion vote. The vote happened.  
23 We had some changes in leadership. And we're now  
24 looking to redraw the zones because any student  
25 that doesn't want to attend that school, we're

1 going to be -- we're in the process of doing that  
2 now, trying to redraw this because we have heard  
3 from some families that they don't wish to stay  
4 and attend there.

5 MS. PAULINE: This is Tiffanie. I have a  
6 couple of clarifying questions. I don't know  
7 if -- I saw someone from the Applicant getting  
8 up. I didn't know if he was going to respond to  
9 the prior question or should I go now?

10 CHAIR GAY: If we could go ahead and let the  
11 Applicant respond to that question, and then  
12 you'll go next.

13 MS. PAULINE: Okay.

14 MR. DURDEN: Thank you. And just to briefly  
15 respond to that, both the Charter Statute and the  
16 Charter Application now require that every three  
17 years the District and the school will  
18 renegotiate any sort of redistricting, and that  
19 has to be by mutual agreement.

20 In addition to that, I just want to note that  
21 the District will retain ownership of the  
22 facilities and the charter school will enroll  
23 students in accordance with the Charter Contract  
24 and the Charter Statute. And because the District  
25 owns the facilities, the facilities maintenance

1 agreement provides that, you know, the school can  
2 request to be placed on the capital improvement  
3 five-year plan.

4 So any sort of major capital projects that  
5 would be required to increase the enrollment of  
6 the school or renovate the school or do anything  
7 like that to address overcrowding, the School  
8 District has an obligation to place those projects  
9 on its five-year capital plan, the same way it  
10 would do so for any of its other school's facility  
11 centers.

12 CHAIR GAY: All right. Tiffanie, you can go  
13 ahead with your question.

14 MS. PAULINE: Thank you. These are just  
15 clarifying questions because I don't have the  
16 benefit of knowing what the lay of the land is,  
17 the blueprints or what the school actually looks  
18 like.

19 I think I heard at least five to nine  
20 portables already exist; is that correct?

21 MS. CERTAIN: So I'm not sure how many  
22 portables are still there because the leased  
23 portables that the District had there, we removed  
24 off, and we left the portables that were owned by  
25 the District there. I think there are five or

1 six.

2 The layout of the school is such that it's  
3 kind of landlocked since there's residential  
4 housing on one side and a cemetery on the other  
5 side. And we have a significant number of  
6 portables on the property.

7 At one point we were kind of entertaining  
8 before construction costs went kind of up the  
9 wazoo during the Pandemic of moving the property  
10 up on the list. But right now, that's not like an  
11 issue, and we haven't looked at that now because  
12 of the proceeds from the sales tax and  
13 (inaudible.)

14 MS. PAULINE: Would you happen to know the  
15 condition of the existing portables there,  
16 whether or not the maintenance or the fiduciary  
17 line items that are included is enough to keep  
18 them at the state they are or if there's a need  
19 to upgrade anything that's not anticipated in the  
20 budget?

21 MS. CERTAIN: So I do think the charter  
22 needs to beef up their numbers. But in the  
23 maintenance agreement that was negotiated before  
24 we came here, because we were told we needed to  
25 continue on with the process that they were going

1 to be opening, the District took the position of  
2 entering into a contract I think of putting up --  
3 they're entering maintenance requests in our  
4 system. And they would be addressed and the  
5 District would want to maintain the properties as  
6 was stated because we do own the property and we  
7 want to make sure that the property is well  
8 maintained.

9 So things that were over \$10,000 would be  
10 considered capital, and the District will take  
11 care of them. And I think it's within a certain  
12 time period. So the District is planning to, I  
13 think, shoulder the bulk of the maintenance of the  
14 building, continue to shoulder that.

15 CHAIR GAY: Tiffanie, do you have any other  
16 questions?

17 MS. PAULINE: Yes, just one last question.  
18 If the reverse happens, so let's say for whatever  
19 reason -- and this will be for both sides -- if  
20 the enrollment shifts downward for whatever  
21 reason, is the facility structured so that part  
22 of the building or some other portables could be  
23 put out of Commission without that additional  
24 cost?

25 Can the cost be downgraded or is it a

1 situation where no matter how many number of kids,  
2 you know, these have to run, you cannot shut  
3 certain parts of the building off so the school  
4 would still will have to carry the costs? Has  
5 that been contemplated by either side?

6 MS. CERTAIN: This is Tina from the  
7 District. I can't comment if the staff has  
8 explored that option or not. I'm not able to  
9 comment.

10 CHAIR GAY: For the Applicant. Sorry, for  
11 the School Board.

12 MR. HARMON: I will just try to say, you  
13 know, that we were going with the application  
14 projections of enrollment, which was growth, not  
15 reduction in size of the school.

16 But I think that's a fair question to ask,  
17 you know, if you're running a facility based on  
18 much less lower enrollment than you have -- you  
19 know, it's a 1975 facility and you can't turn off  
20 the air conditioner in the school, you can't not  
21 run power in the school.

22 Certainly you could salvage some of the  
23 portables, and that may assist. But the analysis  
24 of whether or not the facility could run on less  
25 utilities, I'm not sure that we're in a position

1 to answer that today.

2 MR. DURDEN: So one of the projections  
3 included in the application is enrollment at  
4 75 percent of projections. That is included and  
5 at 75 percent of the projected enrollments. The  
6 budget continues to balance and the school would  
7 still be operating with a contingency funding in  
8 place.

9 Now, to the extent any future decrease in  
10 enrollment, you know, affects the enrollment in  
11 the school and there are for some reason vacant or  
12 unused portables, those would become surplus. The  
13 District would still own those.

14 The District would have the opportunity at  
15 that point, you know, to enter into negotiations  
16 with the school and figure out a way to, you know,  
17 utilize that public property in the best way it  
18 could be used, which it of course continues to be  
19 in the school's interests.

20 So any sort of reduction in enrollment would  
21 just be addressed in conjunction with the District  
22 who would own the facilities.

23 CHAIR GAY: Anymore questions?

24 MS. SWEENEY-SCOTT: I have a question for  
25 the District. Did your charter office involve

1 your transportation department on this section of  
2 the application? Is there like a team that you  
3 have to review the application when they come to  
4 you?

5 MS. CERTAIN: You mean as far as the  
6 District providing transportation services to the  
7 charter?

8 MS. SWEENEY-SCOTT: No. So when you get an  
9 application, for instance, and in this case you  
10 didn't get the application directly, but is there  
11 a team in place, you know, through your charter  
12 office that you have people in different areas to  
13 help review the application?

14 MS. CERTAIN: Yes. I think there was a team  
15 that came together from finance facilities, food  
16 services. All of the areas of the District came  
17 together to sort of respond. And that's how  
18 those 92 issues or the things that Mr. Harmon  
19 came up with and pointed out. District staff  
20 came together from all areas of the District to  
21 respond to that.

22 MS. SWEENEY-SCOTT: Do you know if your  
23 charter office does a training for them since  
24 they're not versed in charter law? Like usually  
25 a district will have training for those different

1 departments. I don't know if that happened or  
2 not.

3 MS. CERTAIN: That I'm not sure of. I can't  
4 answer that.

5 CHAIR GAY: Any other questions or comments  
6 for Members?

7 (No response.)

8 CHAIR GAY: If not, if anyone is prepared to  
9 make a motion on the issue of facilities.

10 MR. MORENO: I move that the Commission find  
11 that there is competent substantial evidence to  
12 conclude the facilities section meets the  
13 requirements and standards set forth in the  
14 evaluation instrument adopted by rule.

15 CHAIR GAY: All right. We have a motion.  
16 Is there a second?

17 MR. GARCIA: I'll second.

18 CHAIR GAY: Any further discussion, Members?

19 (No response.)

20 CHAIR GAY: All right. Karen, if you would  
21 please call the roll.

22 MS. HINES-HENRY: Richard?

23 MR. MORENO: Yes.

24 MS. HINES-HENRY: Osvaldo?

25 MR. GARCIA: Yes.

1 MS. HINES-HENRY: Tiffanie?

2 MS. PAULINE: Yes.

3 MS. HINES-HENRY: Kia?

4 MS. SWEENEY-SCOTT: Yes.

5 CHAIR GAY: Okay. Thank you. The motion  
6 carries.

7 All right, Commission Members. The next  
8 issue is whether the transportation plan meets the  
9 requirements of statute and the evaluation  
10 instrument.

11 And if you all would like to have your time  
12 to present a short opening.

13 MR. HARMON: Can I have a second?

14 CHAIR GAY: Yes.

15 MR. HARMON: Thank you, Members of the  
16 Commission. I guess our comments as it relates  
17 to the issues that were identified with  
18 transportation for the sake of brevity are  
19 outlined on the School District's input that was  
20 provided to the institute, which I would submit  
21 is also provided to you today.

22 The District's concerns are allocated on page  
23 nine and ten as it relates to transportation. Of  
24 the concerns that it had, we would just resubmit  
25 those before this Commission like it has the eight

1 pages before that.

2 CHAIR GAY: All right. Thank you.

3 And for the Applicant, are you ready?

4 MR. DURDEN: I would just briefly add for  
5 the record that the budgeted items for the pupil  
6 transportation are set forth in the application,  
7 Attachment X to the application, which is account  
8 7800.

9 The application does provide for one  
10 additional bus, one backup bus each year. It  
11 provides for fuel costs. That is based on local  
12 diesel fuel prices with estimated mileage of the  
13 routes.

14 And it assumes a one-third student ridership,  
15 which is based on the current membership and the  
16 transportation at Newberry Elementary School. So  
17 I would just add that additional information for  
18 the record.

19 CHAIR GAY: All right. Thank you.

20 Members, I'll go ahead and open the floor for  
21 questions or discussions.

22 MR. MORENO: I'll just add a comment. In  
23 looking at it, it's interesting, this one did  
24 have a lot more discussion purposes within both  
25 the District level and the Commission level, the

1 FCI there.

2 And looking at the budget, what they have for  
3 transportation is budgeted significantly more than  
4 we see on a per-student basis. Usually when we  
5 see an application, that number is about half of  
6 much as they have allocated to that, so I'm  
7 content with the robust discussion and the way it  
8 was reviewed by the FCI.

9 CHAIR GAY: Thank you.

10 MS. CERTAIN: You talk loud in the beginning  
11 and then it trials off and it's so hard to hear  
12 you.

13 CHAIR GAY: Would you mind repeating that  
14 for the benefit of the group?

15 MR. MORENO: Okay.

16 MS. PAULINE: I can barely hear Mr. Moreno.

17 MR. MORENO: All right. I'm the only one  
18 here that's not a teacher. I don't have a  
19 teacher voice.

20 I just wanted to highlight that this topic  
21 actually was a robust conversation from the  
22 transcript, it was on the FCI. And if you look  
23 through there in the budget that we normally see,  
24 the amount that's allocated for transportation is  
25 significantly more than we normally see. So most

1 of the applications, I would say the  
2 transportation is about half as much. And you can  
3 see from the discussion that the school had that  
4 in mind. And then the transportation being a very  
5 important component of their program.

6 CHAIR GAY: Thank you. Any other comments  
7 or questions from the Members?

8 MS. PAULINE: I didn't hear whether or not  
9 Mr. Moreno was saying he was supportive or not  
10 supportive.

11 MR. MORENO: I was supportive of the school  
12 because of the way they articulated and how much  
13 money they had budgeted for it.

14 MS. PAULINE: Okay. Thank you.

15 CHAIR GAY: Any other questions, Members?

16 (No response.)

17 CHAIR GAY: All right. If we are prepared  
18 to make a motion then, if someone would do that.

19 MR. MORENO: Okay. Here we go.

20 CHAIR GAY: Thank you.

21 MR. MORENO: I move that the Commission find  
22 that there is competent substantial evidence to  
23 conclude that the transportation section meets  
24 the requirements of Section 1002.33 and the  
25 standards set forth in the evaluation instrument

1 adopted by rule.

2 CHAIR GAY: All right. We have a motion.

3 Is there a second?

4 MR. GARCIA: I'll second.

5 CHAIR GAY: Osvaldo.

6 Any further discussion, Members?

7 (No response.)

8 CHAIR GAY: All right. Karen, if you would  
9 call the roll, please.

10 MS. HINES-HENRY: Richard?

11 MR. MORENO: Yes.

12 MS. HINES-HENRY: Osvaldo?

13 MR. GARCIA: Yes.

14 MS. HINES-HENRY: Tiffanie?

15 MS. PAULINE: Yes.

16 MS. HINES-HENRY: Kia?

17 MS. SWEENEY-SCOTT: Yes.

18 CHAIR GAY: Okay. Thank you. The motion  
19 carries.

20 All right. That brings us to our next issue,  
21 which is the section regarding food service and  
22 whether it meets the requirements of statute and  
23 the evaluation instrument.

24 Whenever you're ready.

25 MR. HARMON: Thank you. So I'm going to

1 refer the Commission to the School District's  
2 Form IEPC-INP that was submitted back in  
3 December. It outlines on pages ten, page 11 and  
4 page 12 a list of reasons from the School  
5 District staff's perspective as to why the  
6 business plan that was submitted with the  
7 application as it relates to food service does  
8 not meet the standards.

9 Again, I'm not going to reiterate pages ten,  
10 11, and 12, but would submit to the Commission  
11 that those are the grounds through which the  
12 application should be denied.

13 CHAIR GAY: Okay. Thank you.

14 For the Applicant, when you're ready.

15 MR. DURDEN: Yes. Just for the record, the  
16 majority of the food service concerns alleged by  
17 the School District were a lot with the National  
18 School Lunch Program reimbursement rates and then  
19 with the cost of food service capital equipment  
20 or food service equipment, for lack of a better  
21 word.

22 However, the application clearly lies out  
23 that food service will be provided by a  
24 third-party vendor and food will be prepared off  
25 campus and delivered to the school ready to serve.

1 So the only equipment needed at the school is  
2 essentially warming equipment. Nothing will be  
3 prepared at the school. And the school budgeted  
4 \$40,000 as a startup expense to provide for that  
5 equipment.

6 However, as I mentioned shortly ago, House  
7 Bill 1105 provides now that any property normally  
8 inventoried to a school remains at the school, so  
9 that concern goes away. Thank you.

10 CHAIR GAY: Thank you.

11 Any questions from the Members?

12 MR. GARCIA: For the School District. So  
13 currently what kind of equipment do you have? Do  
14 you have a full kitchen?

15 MS. CERTAIN: Would you define what you mean  
16 when you say "full kitchen"?

17 MR. GARCIA: The ability to be able to cook  
18 at the school versus what they're projecting to  
19 do, which is only serve and just keep the food  
20 either cold or warm.

21 MS. CERTAIN: Yes, there is a full kitchen  
22 there. And I think the District said that  
23 equipment that was purchased with federal funds.  
24 Those grants would have to be transferred out of  
25 the facility because they were purchased with the

1 Food and Nutrition System funding.

2 So that's where that discussion came from of  
3 removing equipment and them having to restore  
4 those things to the kitchen. But there is a full  
5 kitchen that's there. There are freezers,  
6 warmers, all that type of stuff.

7 CHAIR GAY: Do you have any comments or  
8 questions?

9 MS. SWEENEY-SCOTT: Yes.

10 MR. ARNOLD: Mr. Durden was going to address  
11 that issue.

12 CHAIR GAY: My apologies.

13 MR. DURDEN: I just wanted to add the school  
14 would just be taking over the operation of the  
15 food service operations at the school. I'm  
16 unaware of anything under the National School  
17 Lunch Program that would require that equipment  
18 to be moved off of that campus because the school  
19 itself is planning on participating in the  
20 National School Lunch Program.

21 And even so, the school is still budgeted for  
22 \$40,000 required for those food warmers so that's  
23 already included in the budget, as well as a  
24 \$12,000 operating deficit in year one to account  
25 for a six-month lag in the beginning of National

1 School Lunch Program participation.

2 So, again, the budget is very conservative in  
3 these regards again with food service. So all of  
4 this stuff is budgeted and shows that the school  
5 will continue to operate at a surplus even with a  
6 conservative budget.

7 CHAIR GAY: Kia, did you have a question?

8 MS. SWEENEY-SCOTT: I have a question  
9 regarding the CEP designation. Would that change  
10 because it's a charter school, because I know in  
11 our district, some of our charter schools are  
12 under our designation and they fall within that  
13 count, so I didn't know if -- we don't have any  
14 conversion either so I don't know if that still  
15 applies.

16 MR. DURDEN: I know the school is planning  
17 on participating as its own provider in the  
18 National School Lunch Program. But, again,  
19 whether or not the School District would have to  
20 remove any federally-funded equipment is another  
21 question that might take a little bit of legal  
22 research that I don't think we're prepared to  
23 answer right now.

24 But I think the operative point is we don't  
25 believe that the equipment needs to be removed.

1 But even if it does need to be removed, the budget  
2 included in the school's application adequately  
3 accounts for the equipment that would be needed to  
4 accommodate a third-party vendor.

5 And those costs were based on actual quotes  
6 received in preparation for the application. So I  
7 think the operative point is the budget adequately  
8 funds the food service and shows that this program  
9 would operate well in excess of what is needed.

10 MS. SWEENEY-SCOTT: I think it was my fault.  
11 I didn't ask the question the right way. Because  
12 the school may convert, does that take them out  
13 of the number to make the CEP?

14 MR. DURDEN: No.

15 MS. SWEENEY-SCOTT: It does not?

16 MR. DURDEN: No.

17 CHAIR GAY: Does the School Board need to  
18 respond to those two questions about CEPs?

19 MR. HARMON: Just as to the CEP only, no.  
20 I'm not sure. As we're standing here we are  
21 trying to come to a conclusion on that as to  
22 whether it would impact it. We have responses,  
23 but just not to that question you answered, or  
24 you asked.

25 CHAIR GAY: Osvaldo, did you have comments?

1           MR. GARCIA: I would assume that if they  
2 would continue, because in our situation in  
3 Orange County where schools have been -- even  
4 though they're charter schools, they still  
5 qualify for a CEP.

6           My concern -- and I don't know if legal  
7 counsel can further advise us on that -- but as  
8 far as equipment purchased with federal funding, I  
9 mean, there is a lot of other equipment that is  
10 bought with federal funding such as ESE and other  
11 areas that remains at the school. So why would  
12 the lunch equipment be different? I'm not  
13 understanding that.

14           Is there an exception to lunch equipment?

15           CHAIR GAY: Mr. Harmon, are you able to  
16 provide the authority on that or was that just an  
17 understanding of the District?

18           MR. HARMON: As I'm sitting here, I don't  
19 have the specific cite to that. But our District  
20 personnel's understanding is that with the  
21 federal funding, if it was purchased with federal  
22 dollars, it goes, which would mean it would need  
23 to be replaced. But I don't have that legal  
24 citation right now as I'm standing here.

25           MS. BRAUN: Would they go into surplus?

1 MR. HARMON: The equipment that's there?

2 MS. SWEENEY-SCOTT: Yes.

3 MR. HARMON: I guess it would depend on  
4 maybe the condition of the equipment whether it  
5 could be surplused or not.

6 MS. SWEENEY-SCOTT: I ask that because it's  
7 still District property. That's the only reason  
8 I asked it. Why wouldn't it stay in the facility  
9 if it's District property?

10 MR. HARMON: I'm not sure.

11 MR. GARCIA: But even if it goes into  
12 surplus, the Charter School has the ability to  
13 request equipment from surplus?

14 MR. HARMON: I guess my concern is I'm not  
15 sure I've even heard an answer of how food  
16 service is going to be provided at the Charter  
17 School, whether it's going to be a vendor that  
18 comes in and does it or if it's going to be using  
19 the equipment in place despite all that  
20 discussion.

21 MR. MORENO: In looking at the budget, it  
22 looks like they're going to be contracting with a  
23 service provider to provide that. I think the  
24 kitchen equipment becomes a moot point.

25 And they're putting it at \$4.50 per student

1 lunch, which is actually a little high for what it  
2 is. So the overall lunch program is generating at  
3 a slight loss, which is what we normally see.

4 CHAIR GAY: Any other questions for Members?

5 (No response.)

6 CHAIR GAY: All right. Is anyone prepared  
7 to make a motion on the issue of food service?

8 MR. GARCIA: I'll make it.

9 CHAIR GAY: Okay.

10 MR. GARCIA: I move that the Commission find  
11 that there is competent substantial evidence to  
12 conclude that the food service section meets  
13 requirements of State Statute 1002.33 and the  
14 standards set forth in the evaluation instrument  
15 adopted in Rule 6A-6.0786.

16 CHAIR GAY: Thank you. We have a motion.  
17 Is there a second?

18 MS. SWEENEY-SCOTT: I'll second.

19 CHAIR GAY: Second from Kia.

20 Any further discussion, Members?

21 (No response.)

22 CHAIR GAY: Okay. Karen, if you would call  
23 the roll, please.

24 MS. HINES-HENRY: Osvaldo?

25 MR. GARCIA: Yes.

1 MS. HINES-HENRY: Kia?

2 MS. SWEENEY-SCOTT: Yes.

3 MS. HINES-HENRY: Richard?

4 MR. MORENO: Yes.

5 MS. HINES-HENRY: Tiffanie?

6 MS. PAULINE: Yes.

7 CHAIR GAY: Okay. Thank you. That motion  
8 carries.

9 We are now at our final substantive motion,  
10 or substantive issue on whether the budget meets  
11 the requirements in law and the evaluation  
12 instrument.

13 I understand this might be an issue that  
14 might need more than 60 seconds to do a brief  
15 overview on.

16 MR. DURDEN: Yeah. Maybe three minutes.

17 CHAIR GAY: Three minutes. I'll allow three  
18 minutes to both.

19 Go ahead when you're ready.

20 MR. HARMON: Thank you, Members of the  
21 Commission. As to the last item, the budget, I  
22 know I've said this a few times before. The  
23 School District's response prepared by District  
24 personnel after careful review and a significant  
25 of time -- a significant amount of time and

1 expenditure of resources to review.

2 Looking at Form IEPC-INP which was submitted  
3 months ago, beginning on page 12 page 13, and page  
4 14, the District went through and specifically  
5 identified by page number areas where there were  
6 concerns that the plan did not meet the standard,  
7 areas where there were concerns that it partially  
8 met the standard.

9 And much like a lot of the other concerns  
10 that were identified specifically on this document  
11 today, many of which have gone unrebutted, I would  
12 submit that each of these items contained here on  
13 pages 12, 13, and 14 are grounds to not approve  
14 the application. And we would love to hear an  
15 explanation as to each of them and how that is  
16 competent substantial evidence to support  
17 approving it.

18 CHAIR GAY: All right. Thank you.

19 MR. DURDEN: We have covered a lot of the  
20 specifics so far. I know we talked about food  
21 service, facilities, maintenance and a few things  
22 of that sort.

23 However, just in general, the concerns  
24 alleged by the School District with the budget in  
25 totality, a lot of them focus on individual line

1 items of the budget, and they fail to look at the  
2 application as a whole.

3 Just one example of that is that during  
4 professional development, the District is  
5 concerned that the budget doesn't account for  
6 substitute teachers to cover classrooms during  
7 professional development times.

8 Well, the application provides on its face  
9 that all professional development for teachers  
10 happens outside of instructional time, so  
11 substitute teachers are not required. And that's  
12 just one of many examples.

13 So across the board, we can take out a lot of  
14 these individual little concerns with budgetary  
15 items by simply taking a look at the notes in the  
16 budget and taking a look at the application. And  
17 then in those very few, if any, instances where  
18 there may be a valid concern, the budget itself  
19 self addresses those concerns because, as I've  
20 noted, the budget in totality is very  
21 conservative.

22 One of the District's concerns is that the  
23 school has budgeted \$950 per bus driver for  
24 participation in the group health insurance plan.  
25 The District is concerned because \$950 seems too

1 high.

2 We won't rebut that actually because we agree  
3 that this budget is conservative. We are  
4 anticipating expenses here beyond those reasonably  
5 seen because that's how you run responsible fiscal  
6 management.

7 And then on top of that, there's a 3 percent  
8 contingency fund that starts with \$130,000 in year  
9 one and goes up to \$180,000 in year five. And  
10 that's on top of those issues that I've raised  
11 about, you know, House Bill 1105 where all of this  
12 property now is going to stay at the school.  
13 That's on top of the fact that the School District  
14 is obligated to shoulder the, you know, majority  
15 of facilities maintenance costs.

16 So individually every single budgetary  
17 concern has an explanation. But in totality, the  
18 budget is so conservative, it is so safe, and it  
19 so thorough that it cannot be said that there's  
20 any good cause to deny this application based on  
21 the budget included in the application. And I'll  
22 leave it at that. Thank you.

23 CHAIR GAY: Thank you.

24 Members, let's jump into questions and  
25 comments on the budget.

1           MR. MORENO: So going through the notes, the  
2 District brought up all the different components  
3 of it. A couple of them, which is the IDA,  
4 utilities. Then you go into the food service and  
5 transportation that we've already looked at.

6           So the other ones that are mentioned here to  
7 me are not material over a totality of the budget.  
8 And there is sufficient -- even if you take a look  
9 at what the District is putting, there is  
10 sufficient reserves to cover that as we look at  
11 it.

12           And I think the other items that are  
13 mentioned through here are stuff that we looked  
14 at, the food and the transportation side.

15           CHAIR GAY: All right. Thank you for that.

16           Any additional comments for Members, or  
17 questions?

18           MS. PAULINE: I have a question.

19           CHAIR GAY: Yes, ma'am. Go ahead.

20           MS. PAULINE: So it was mentioned on more  
21 than one occasion that the budget is conservative  
22 and in the eyes of the Applicant very sound and  
23 well built.

24           I guess I have a question then. I believe  
25 it's in the budget under "Other Income Sources."

1           It's been discussed in the beginning, the loan  
2           proceeds provided by the City, I think it looks  
3           like a million six. And if that is in fact the  
4           case, what I'm hearing is that this is a  
5           conservative budget that can pretty much stand on  
6           its own, but yet there's a reliance on the City  
7           for a million six. But I'm not sure if I saw any  
8           documentation supporting that million six other  
9           than conversations that I heard through the  
10          capacity interview.

11                 Can someone speak to that?

12                 MR. DURDEN: Yes. This is Matthew Durden  
13                 again. So included in the application was  
14                 Attachment Z, which was that commitment letter  
15                 from the City of Newberry where they, you know,  
16                 basically agreed that they would be providing  
17                 that external funding, so that's what was  
18                 included in the application.

19                 Since then, there has been a loan agreement  
20                 negotiated where there is a revolving loan in  
21                 place. And that does have very favorable interest  
22                 rates and repayment terms. So that funding is  
23                 secured.

24                 And, you know, much like the application  
25                 states, the HR and payroll agreement will be in

1 place by the time the school starts operating.

2 That loan agreement was put in place after the  
3 Review Commission reviewed the application.

4 But in short, yes, that funding is in place.  
5 There's an agreement. So that was safe for the  
6 school to include.

7 MS. PAULINE: And my followup question would  
8 be -- I think I read this. I'm not sure if I  
9 heard this in the capacity interview or it was an  
10 article, but I did read one of the greater  
11 selling points to be that this school, this new  
12 converted school will be able to offer higher  
13 salaries than before, as well as the FRS  
14 component.

15 Is that configured into this conservative  
16 budget or will you rely on the loan to fill any  
17 gaps?

18 MR. DURDEN: Well, again, the loan has been  
19 secured so that's not really a concern for the  
20 school at this point. And the budget itself is  
21 based on an average salary of \$53,000 for  
22 classroom teachers.

23 Do you have more on that point?

24 MS. GRANGER: No.

25 MR. DURDEN: Okay. Maybe the District can

1 speak to the average salary in the District, but  
2 I can say that the budget itself is based on an  
3 average salary of \$53,000 for classroom  
4 instructors.

5 MR. MORENO: Tiffanie.

6 MS. PAULINE: Is this Richard?

7 MR. MORENO: Yeah. I'm trying to find what  
8 page number it is on the PDF. You guys might  
9 have it. There is actually a comparison that's  
10 showing what the teachers are earning now and how  
11 they're going to be compensated more on that.

12 I had a footnote in here, but I can't find it  
13 right now. But there was a chart that showed  
14 that. So the idea was that the teachers would get  
15 a little bit of a bump somewhere.

16 And then basically that loan pays the  
17 upfront. The budget is not relying on that loan  
18 for continuing operating support.

19 MS. SWEENEY-SCOTT: There is a chart.

20 MR. MORENO: Yeah, I think I saw it  
21 somewhere.

22 MS. PAULINE: Richard, I couldn't hear you.  
23 I heard you say there was a chart. And I thought  
24 there was a chart, but I couldn't find it again  
25 either. But I couldn't hear anything after that.

1 MR. MORENO: Yeah. So there's a chart  
2 somewhere. We're looking for it now.

3 But then to your bigger point is it's not  
4 relying on that loan on continuing operations. So  
5 if you look at the budget, most of the loan  
6 proceeds are spent before, during the planning  
7 year.

8 MR. DURDEN: This is Matthew Durden. If I  
9 may clarify for the record. Thank you,  
10 Mr. Moreno.

11 Yes, the loan proceeds of \$1.65 million,  
12 that's all during the planning year. And then  
13 that drops to \$95,000, \$10,000, \$45,000 in years  
14 one, two and three respectively. So just for the  
15 record, yes, that loan is primarily to be used for  
16 startup costs during the planning year.

17 CHAIR GAY: Did the School Board need to  
18 respond? There were a series of questions there.

19 MR. HARMON: Yeah, I guess I would just like  
20 to know what chart we're talking about because  
21 I've been looking through my materials for the  
22 teacher salary comparison chart.

23 MR. MORENO: I'll find it.

24 CHAIR GAY: We'll take a brief time.

25 MR. HARMON: Yeah. I may or may not have a

1 comment on that. I just want to make sure I'm  
2 looking at that.

3 Just one note for the budget just specific to  
4 what was addressed. Aside from the loan, there's  
5 also an \$80,000 per year in-kind gift that is  
6 contemplated in the budget for the purposes of SRO  
7 costs.

8 And I believe during the capacity interview,  
9 one of the comments that was made was that the  
10 City was going to forgive costs related to garbage  
11 or some type of utility collections.

12 And there's not been any allocations in the  
13 budget as to what happens if that goes away,  
14 meaning what if the partnership breaks up, the  
15 City no longer provides those types of in-kind  
16 gifts, where does that -- how much is that cost  
17 going to impact the budget and where is that going  
18 to come from.

19 As to teacher salaries, I just want to make a  
20 comment to make sure we're looking at the same  
21 document.

22 MS. SWEENEY-SCOTT: We found the pay  
23 proposal. It's in the PowerPoint presentation.  
24 I just don't know what page.

25 MR. HARMON: That's in the February 20th

1 letter.

2 MR. MORENO: Thank you. Basically where  
3 they show the stuff from PowerPoint, right?

4 MS. SWEENEY-SCOTT: Yes.

5 MR. MORENO: I think that's where that is.

6 MS. SWEENEY-SCOTT: I'm looking to see if I  
7 can find a page number.

8 MR. MORENO: It should be in the PDF.

9 MS. SWEENEY-SCOTT: I'm looking at it. I'm  
10 trying see what page. I can't fine it.

11 CHAIR GAY: You all will have to speak up  
12 for the court reporter.

13 MR. MORENO: On the far right it tells you  
14 what page it is in the PDF.

15 MS. SWEENEY-SCOTT: It is on page 387 of the  
16 PDF of the application. Go to packet four. Let  
17 me see which packet this is.

18 MR. MORENO: From the School District, the  
19 25-04.30 appeal. Found it.

20 MR. HARMON: Does it say "Pay Proposal" on  
21 the top left?

22 MR. MORENO: Yes.

23 MR. HARMON: Okay. We found it. No  
24 questions or comments on that one.

25 CHAIR GAY: Members, any other questions or

1 comments on the budget?

2 (No response.)

3 CHAIR GAY: All right. Whenever you're  
4 ready, if someone's prepared to make a motion on  
5 the issue of the budget.

6 MR. MORENO: I can't think of one.

7 MR. GARCIA: That's your expertise.

8 MR. MORENO: All right. I move the  
9 Commission find that there is competent  
10 substantial evidence to conclude that -- sorry --  
11 competent substantial evidence to conclude the  
12 Applicant's budget meets the requirement of  
13 1002.33 and the standards set forth in the  
14 evaluation instrument adopted by Rule 6A.

15 CHAIR GAY: All right. We have a motion.  
16 Is there a second?

17 MR. GARCIA: So moved.

18 CHAIR GAY: Osvaldo.

19 Any further discussion, Members, on the  
20 budget issue before we move to vote?

21 (No response.)

22 CHAIR GAY: All right. Karen, if you could  
23 call the roll.

24 MS. HINES-HENRY: Richard?

25 MR. MORENO: Yes.

1 MS. HINES-HENRY: Osvaldo?

2 MR. GARCIA: Yes.

3 MS. HINES-HENRY: Tiffanie?

4 (No response.)

5 CHAIR GAY: Tiffanie, can you hear us?

6 MS. PAULINE: I'm sorry. I'm on mute.

7 CHAIR GAY: That's okay.

8 MS. PAULINE: I'm struggling, but yes.

9 MS. HINES-HENRY: Kia?

10 MS. SWEENEY-SCOTT: Yes.

11 CHAIR GAY: All right. Thank you. The  
12 motion carries.

13 All right. So we have one final vote to take  
14 on the application and appeal. Will someone  
15 please make the motion to grant the Conversion  
16 Charter Application submitted by Newberry.

17 MR. GARCIA: I vote the Commission recommend  
18 that the State Board grant the Conversion Charter  
19 Application submitted by Newberry Community  
20 School.

21 CHAIR GAY: Thank you. Is there a second?

22 MR. MORENO: Yes.

23 CHAIR GAY: Thank you. Any further  
24 discussion, Members?

25 (No response.)

1 CHAIR GAY: All right. Karen, if you could  
2 go ahead and call the roll.

3 MS. HINES-HENRY: Osvaldo?

4 MR. GARCIA: Yes.

5 MS. HINES-HENRY: Richard?

6 MR. MORENO: Yes.

7 MS. HINES-HENRY: Tiffanie?

8 MS. PAULINE: No.

9 MS. HINES-HENRY: Kia?

10 MS. SWEENEY-SCOTT: Yes.

11 CHAIR GAY: All right. Thank you. The  
12 motion carries.

13 We initially had put the final motion at the  
14 bottom to delegate to department staff the written  
15 recommendation, but we're going to strike that for  
16 now and we'll just do as we always do. We're  
17 going to do a short call once staff has drafted  
18 the written recommendation so that you can provide  
19 any feedback that you have, and then we will vote  
20 to approve the written recommendation. And it  
21 will be forwarded on to the State Board.

22 And for the parties, the appeal will go  
23 before the State Board at the September 24th  
24 meeting in Fort Walton Beach. The parties will be  
25 given a short time to present their case. And the

1 State Board Members may ask questions of the  
2 parties before making the final decision. And  
3 they will also take up that Motion to Dismiss  
4 that's still pending as well.

5 Jamie, have I missed anything?

6 MS. BRAUN: I don't think so.

7 CHAIR GAY: Okay. Members, have I missed  
8 anything? Good to go?

9 MR. GARCIA: No.

10 CHAIR GAY: All right. The recommendation  
11 will be voted on. And I'll make sure to notice  
12 the parties of when that happens.

13 All right. Thank you all.

14 (Whereupon, proceedings were concluded at  
15 1:52 p.m.)

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CERTIFICATE OF REPORTER

STATE OF FLORIDA )  
COUNTY OF LEON )

I, MICHELLE SUBIA, Registered Professional Reporter, certify that the foregoing proceedings were taken before me at the time and place therein designated; that my shorthand notes were thereafter translated under my supervision; and the foregoing pages, numbered 1 through 168, are a true and correct record of the aforesaid proceedings.

I further certify that I am not a relative, employee, attorney or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorney or counsel connected with the action, nor am I financially interested in the action.

DATED this 4th day of September, 2025.



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MICHELLE SUBIA, CCR, RPR  
NOTARY PUBLIC  
COMMISSION #HH252438  
EXPIRES JUNE 7, 2026

CHAIR GAY: [195]  
MR. ARNOLD: [40] 19/3 28/2 32/1 34/11 34/21 35/7 38/23 42/13 48/9 51/23 53/3 53/18 54/16 57/5 62/2 64/22 67/8 68/12 69/12 69/18 71/25 74/20 84/22 101/1 101/20 102/17 102/23 103/1 104/4 104/24 108/22 115/13 115/25 119/14 121/20 122/15 123/13 124/5 125/3 148/9  
MR. DURDEN: [18] 128/2 129/10 130/5 130/9 133/13 138/1 142/3 146/14 148/12 149/15 150/13 150/15 154/15 155/18 159/11 160/17 160/24 162/7  
MR. GARCIA: [46] 3/24 29/17 30/12 35/22 44/6 44/22 45/15 64/7 64/9 65/14 76/18 76/20 77/5 95/14 95/25 97/5 97/12 97/14 98/9 100/3 101/2 112/9 112/11 113/7 118/18 119/3 122/1 125/21 126/10 140/16 140/24 145/3 145/12 147/11 147/16 150/25 152/10 153/7 153/9 153/24 165/6 165/16 166/1 166/16 167/3 168/8  
MR. HARMON: [52] 7/5 7/10 7/22 7/25 10/22 11/2 26/5 26/8 30/23 33/2 36/6 36/8 38/7 41/10 46/11 46/13 50/6 65/15 70/23 72/24 75/16 79/14 79/17 79/21 96/15 103/10 107/9 107/13 117/4 117/11 117/16 120/12 124/14 127/3 131/12 131/14 137/11 141/12 141/14 145/24 150/18 151/17 151/25 152/2 152/9 152/13 154/19 162/18 162/24 163/24 164/19 164/22  
MR. MARLOWE: [2] 69/22 70/10  
MR. MORENO: [50] 4/1 44/13 45/1 45/13 49/23 71/20 77/1 77/7 97/22 98/14 100/5 113/11 115/4 118/7 119/1 125/9 126/3 126/12 129/3 130/2 130/6 132/2 140/9 140/22 142/21 143/14 143/16 144/10 144/18 144/20 145/10 152/20 154/3 157/25 161/4 161/6 161/19 161/25 162/22 164/1 164/4 164/7 164/12 164/17 164/21 165/5 165/7 165/24 166/21 167/5  
MS. BRAUN: [12] 29/25 90/2 90/5 90/11 90/16 91/15 92/20 93/5 95/3 96/8 151/24 168/5  
MS. CERTAIN: [14] 54/5 54/21 55/16 58/24 132/18 134/20 135/20 137/5 139/4 139/13 140/2 143/9 147/14 147/20  
MS. GRANGER: [3] 105/2 105/5 160/23  
MS. HINES-HENRY: [49] 3/23 3/25 4/2 4/4 45/12 45/14 45/16 45/18 77/4 77/6 77/8 77/10 95/23 100/2 100/4 100/6 100/8 113/6 113/8 113/10 113/12 118/25 119/2 119/4 119/6 126/9 126/11 126/13 126/15 140/21 140/23 140/25 141/2 145/9 145/11 145/13 145/15 153/23 153/25 154/2 154/4 165/23 165/25 166/2 166/8 167/2 167/4 167/6 167/8  
MS. PAULINE: [81] 4/3 31/3 31/5 32/25 33/20 34/20 40/2 40/5 40/7 44/24 45/8 45/17 52/19 52/23 53/8 53/12 56/17 58/13 67/20 67/23 69/5 70/6 70/20 73/24 74/1 77/9 78/1 79/20 89/1 89/4 89/24 90/4 90/10 90/15

92/16 98/21 99/8 99/13 99/21 99/24 100/7 100/22 101/6 101/9 101/19 102/10 102/21 102/24 110/15 113/13 114/7 118/3 119/5 121/15 121/18 121/22 122/3 122/7 123/6 123/19 126/14 126/16 133/4 133/12 134/13 135/13 136/16 141/1 143/15 144/7 144/13 145/14 154/5 158/17 158/19 160/6 161/5 161/21 166/5 166/7 167/7  
MS. SWEENEY-SCOTT: [43] 4/5 30/15 30/19 34/23 37/24 38/2 45/19 52/16 52/24 67/1 77/11 92/18 92/21 94/2 94/25 100/9 111/21 112/25 113/9 119/7 124/25 132/11 138/23 139/7 139/21 141/3 145/16 148/8 149/7 150/9 150/14 152/1 152/5 153/17 154/1 161/18 163/21 164/3 164/5 164/8 164/14 166/9 167/9  
THE COURT REPORTER: [5] 7/8 7/12 7/14 11/1 46/1

\$

\$1.65 [1] 162/11  
\$1.65 million [1] 162/11  
\$10,000 [2] 136/9 162/13  
\$116,000 [1] 130/19  
\$12,000 [1] 148/24  
\$121,500 [1] 131/21  
\$130,000 [1] 157/8  
\$180,000 [1] 157/9  
\$2.2 [1] 73/11  
\$2.2 million [1] 73/11  
\$25 [4] 47/19 47/20 48/25 51/10  
\$4.50 [1] 152/25  
\$40,000 [2] 147/4 148/22  
\$45,000 [1] 162/13  
\$5,000 [2] 130/19 131/22  
\$50 [1] 51/13  
\$50,000 [1] 131/23  
\$53,000 [2] 160/21 161/3  
\$60,000 [3] 120/3 120/10 125/1  
\$75,000 [1] 130/12  
\$75,547 [1] 131/19  
\$80,000 [2] 73/13 163/5  
\$95,000 [1] 162/13  
\$950 [2] 156/23 156/25

0

04.30 [1] 164/19  
07 [1] 1/14

1

1002.33 [8] 18/24 44/19 67/15 91/1 129/12 144/24 153/13 165/13  
11 [2] 146/3 146/10  
1105 [3] 128/19 147/7 157/11  
116,000 [1] 129/24  
11:20 [1] 78/5  
12 [5] 108/2 146/4 146/10 155/3 155/13  
121,000 [1] 129/23  
12:00 [1] 5/7  
12:40 [3] 114/2 114/9 114/10  
12th [1] 13/8  
13 [4] 116/2 124/9 155/3 155/13  
14 [2] 155/4 155/13  
14-page [1] 16/19  
15 [2] 49/5 57/7  
168 [1] 169/9  
17 [1] 13/13

1704/07 [1] 1/14  
18 [5] 23/12 63/2 104/7 107/5 129/12  
1975 [1] 137/19  
1:52 [2] 1/12 168/15

2

20 [2] 22/6 23/3  
2018 [1] 59/8  
2022 [1] 37/9  
2024 [6] 13/13 14/14 36/16 38/10 71/13 73/7  
2025 [7] 1/11 3/6 11/10 11/15 39/16 49/14 169/16  
2026 [1] 169/21  
20th [2] 41/16 163/25  
22 [7] 13/16 20/2 20/2 33/18 33/20 34/19 41/23  
22/22 [1] 34/19  
23 [3] 13/5 16/5 30/25  
23 percent [1] 30/22  
23rd [1] 12/12  
24th [1] 167/23  
25 [4] 17/3 61/4 62/16 84/15  
25 percent [2] 61/7 63/22  
25-04.30 [1] 164/19  
25th [2] 1/11 3/6  
26th [2] 11/10 16/19  
29th [1] 12/12

3

3 percent [1] 157/7  
30 [1] 119/21  
30-minute [1] 5/6  
300-page [1] 16/11  
30th [1] 11/15  
325 [1] 1/13  
34 [1] 22/24  
350 [2] 130/18 132/5  
387 [1] 164/15  
390 [3] 130/18 132/6 132/6

4

40-year [1] 63/13  
44 [2] 13/3 20/1  
471 [2] 121/7 127/13  
4th [1] 169/16

5

50 [7] 12/15 12/24 20/9 27/6 27/21 29/21 61/4  
50 percent [17] 12/10 12/20 14/2 14/8 14/13 14/22 19/24 20/3 20/14 20/14 25/6 27/12 30/6 37/4 38/14 63/20 63/21  
501 [5] 17/13 48/4 50/11 66/13 76/11  
5831 [1] 1/23  
5th [1] 13/8

6

6.0786 [4] 97/20 112/17 126/1 153/15  
6.0787 [1] 12/22  
6.0792 [2] 17/23 96/17  
60 [3] 119/13 126/22 154/14  
60-second [2] 115/17 121/10  
658 [1] 127/12  
67 [1] 85/22  
680 [1] 130/18  
6A [1] 165/14  
6A-6.0786 [4] 97/20 112/17 126/1 153/15

<p>6 6A-6.0787 [1] 12/22 6A-6.0792 [2] 17/23 96/17 6th [4] 12/13 14/13 36/16 36/19</p>	<p>88/12 101/25 109/25 110/20 120/1 120/20 120/25 130/9 131/20 134/17 143/21 153/1 157/2 161/9 Adam [3] 3/16 20/8 29/9 add [12] 22/16 33/10 97/24 98/15 117/22 128/10 130/19 132/7 142/4 142/17 142/22 148/13 added [2] 101/5 115/8 addition [7] 15/18 20/13 42/24 104/10 109/9 128/13 133/20 additional [13] 22/16 99/7 104/11 110/5 117/14 117/25 123/11 128/11 128/16 136/23 142/10 142/17 158/16 Additionally [1] 37/5 address [37] 5/3 8/21 8/24 8/25 16/7 17/24 19/9 21/8 22/15 23/25 27/10 28/13 28/19 46/8 59/16 59/23 81/1 81/17 83/19 85/16 86/19 88/12 93/4 93/20 102/9 103/9 104/3 104/24 105/2 108/19 109/17 109/17 115/25 120/15 120/15 134/7 148/10 addressed [32] 7/5 10/12 11/17 14/23 42/10 57/10 71/8 73/5 73/20 80/23 81/24 82/25 84/9 87/10 87/16 95/6 95/7 97/8 103/10 103/25 104/6 108/22 109/16 119/19 121/10 127/22 127/24 129/19 132/2 136/4 138/21 163/4 addresses [2] 57/7 156/19 addressing [3] 6/19 81/7 97/4 adequate [3] 31/12 124/11 130/24 adequately [7] 18/18 46/16 48/9 95/5 131/8 150/2 150/7 adjust [2] 10/23 105/18 administrative [3] 23/5 30/11 96/17 administrators [2] 72/14 122/13 admittedly [1] 83/6 adopted [13] 14/10 27/1 35/5 37/7 97/20 112/16 112/24 118/13 126/1 140/14 145/1 153/15 165/14 adverse [1] 14/23 advise [1] 151/7 advised [1] 20/11 advisory [3] 58/22 61/12 66/21 affect [1] 103/8 affects [1] 138/10 affiliated [1] 75/10 affirm [1] 25/18 Affirmative [3] 46/5 105/5 114/5 aforesaid [1] 169/10 after [20] 8/23 9/16 14/24 17/2 17/19 28/22 33/8 35/9 40/23 41/24 42/12 43/8 43/8 68/15 79/9 99/20 123/12 154/24 160/2 161/25 afternoon [2] 77/18 128/3 again [50] 3/3 7/23 10/2 10/5 11/3 14/17 15/13 21/9 22/10 24/6 26/10 26/24 27/15 28/14 29/6 31/24 34/17 35/14 41/24 42/24 46/8 51/20 66/4 75/20 77/21 81/13 83/22 83/22 86/2 86/5 87/19 98/23 105/6 107/16 108/8 108/19 109/11 117/5 117/17 119/16 120/18 120/23 131/24 146/9 149/2 149/3 149/18 159/13 160/18 161/24 against [5] 29/23 36/4 56/2 56/3 59/25 age [1] 127/16 agency [1] 37/16 agenda [3] 71/12 71/13 83/7 aggrieved [1] 42/4 ago [6] 11/4 20/21 55/19 57/10 147/6 155/3</p>	<p>agree [6] 30/21 34/19 95/12 95/13 103/3 157/2 agreed [6] 13/11 43/12 129/17 129/25 131/3 159/16 agreed-upon [1] 13/11 agreement [28] 23/16 23/17 59/3 68/2 68/15 68/16 68/23 70/1 70/4 70/15 70/16 71/6 71/23 71/25 72/1 73/16 104/14 114/4 129/15 129/17 131/10 133/19 134/1 135/23 159/19 159/25 160/2 160/5 agreements [1] 58/22 ahead [29] 3/2 3/22 5/3 9/2 31/5 40/5 43/14 49/22 53/7 53/11 54/19 64/9 67/23 70/5 77/2 78/8 79/8 99/16 99/23 100/19 111/21 114/19 121/18 133/10 134/13 142/20 154/19 158/19 167/2 AI [1] 94/7 aides [1] 108/6 air [1] 137/20 ALACHUA [15] 1/5 3/7 5/22 8/2 11/6 13/10 20/21 22/20 23/1 23/22 23/25 24/15 51/12 54/7 56/12 Albert [1] 3/18 alignment [1] 60/16 all [126] 3/9 5/9 5/12 8/10 9/3 10/17 10/25 16/3 18/10 18/19 21/14 23/18 25/22 28/12 29/16 30/18 30/21 31/14 36/9 38/4 39/15 40/10 41/16 41/24 42/25 43/1 44/5 45/7 46/6 49/8 49/17 49/21 53/2 53/18 58/8 60/10 65/14 70/5 71/10 71/10 75/17 76/17 76/25 77/3 77/13 77/20 78/5 78/12 79/6 80/24 86/6 87/1 88/22 93/24 96/12 97/21 98/3 99/17 100/11 100/15 102/15 109/18 109/20 112/18 113/5 113/15 114/6 114/13 117/10 117/25 118/6 118/14 118/20 118/24 119/9 120/19 121/13 123/3 123/12 125/18 126/2 126/5 126/8 126/18 128/2 128/22 129/1 130/13 130/17 131/7 134/12 139/16 139/20 140/15 140/20 141/7 141/11 142/2 142/19 143/17 144/17 145/2 145/8 145/20 148/6 149/3 152/19 153/6 155/18 156/9 157/11 158/2 158/15 162/12 164/11 165/3 165/8 165/15 165/22 166/11 166/13 167/1 167/11 168/10 168/13 168/13 alleged [2] 146/16 155/24 alleges [1] 23/25 allocated [6] 79/25 81/9 125/4 141/22 143/6 143/24 allocation [4] 63/4 120/3 122/25 125/5 allocations [2] 23/24 163/12 allow [5] 25/19 60/18 68/20 83/19 154/17 allowed [5] 19/20 22/1 42/22 48/21 85/6 almost [3] 28/22 110/21 127/18 along [4] 19/6 23/24 38/20 62/14 alongside [1] 6/8 already [17] 11/17 24/4 25/19 30/3 31/8 60/10 60/13 74/5 92/4 103/6 109/10 129/16 129/25 131/2 134/20 148/23 158/5 also [40] 3/11 3/16 3/18 7/21 8/20 11/6 14/10 15/7 20/23 23/22 27/15 41/6 48/19 49/11 51/10 51/17 59/6 59/25 60/8 61/19 63/8 66/14 67/16 77/24</p>
<p>7 73 [1] 75/22 75 [2] 130/4 138/5 75 percent [1] 138/4 766-5831 [1] 1/23 7800 [1] 142/8 79 [1] 130/18 7900 [2] 132/5 132/6</p>	<p>8 80 percent [1] 111/5 850 [1] 1/23</p>	<p>agreements [1] 58/22 ahead [29] 3/2 3/22 5/3 9/2 31/5 40/5 43/14 49/22 53/7 53/11 54/19 64/9 67/23 70/5 77/2 78/8 79/8 99/16 99/23 100/19 111/21 114/19 121/18 133/10 134/13 142/20 154/19 158/19 167/2 AI [1] 94/7 aides [1] 108/6 air [1] 137/20 ALACHUA [15] 1/5 3/7 5/22 8/2 11/6 13/10 20/21 22/20 23/1 23/22 23/25 24/15 51/12 54/7 56/12 Albert [1] 3/18 alignment [1] 60/16 all [126] 3/9 5/9 5/12 8/10 9/3 10/17 10/25 16/3 18/10 18/19 21/14 23/18 25/22 28/12 29/16 30/18 30/21 31/14 36/9 38/4 39/15 40/10 41/16 41/24 42/25 43/1 44/5 45/7 46/6 49/8 49/17 49/21 53/2 53/18 58/8 60/10 65/14 70/5 71/10 71/10 75/17 76/17 76/25 77/3 77/13 77/20 78/5 78/12 79/6 80/24 86/6 87/1 88/22 93/24 96/12 97/21 98/3 99/17 100/11 100/15 102/15 109/18 109/20 112/18 113/5 113/15 114/6 114/13 117/10 117/25 118/6 118/14 118/20 118/24 119/9 120/19 121/13 123/3 123/12 125/18 126/2 126/5 126/8 126/18 128/2 128/22 129/1 130/13 130/17 131/7 134/12 139/16 139/20 140/15 140/20 141/7 141/11 142/2 142/19 143/17 144/17 145/2 145/8 145/20 148/6 149/3 152/19 153/6 155/18 156/9 157/11 158/2 158/15 162/12 164/11 165/3 165/8 165/15 165/22 166/11 166/13 167/1 167/11 168/10 168/13 168/13 alleged [2] 146/16 155/24 alleges [1] 23/25 allocated [6] 79/25 81/9 125/4 141/22 143/6 143/24 allocation [4] 63/4 120/3 122/25 125/5 allocations [2] 23/24 163/12 allow [5] 25/19 60/18 68/20 83/19 154/17 allowed [5] 19/20 22/1 42/22 48/21 85/6 almost [3] 28/22 110/21 127/18 along [4] 19/6 23/24 38/20 62/14 alongside [1] 6/8 already [17] 11/17 24/4 25/19 30/3 31/8 60/10 60/13 74/5 92/4 103/6 109/10 129/16 129/25 131/2 134/20 148/23 158/5 also [40] 3/11 3/16 3/18 7/21 8/20 11/6 14/10 15/7 20/23 23/22 27/15 41/6 48/19 49/11 51/10 51/17 59/6 59/25 60/8 61/19 63/8 66/14 67/16 77/24</p>
<p>8 80 percent [1] 111/5 850 [1] 1/23</p>	<p>8 80 percent [1] 111/5 850 [1] 1/23</p>	<p>agreements [1] 58/22 ahead [29] 3/2 3/22 5/3 9/2 31/5 40/5 43/14 49/22 53/7 53/11 54/19 64/9 67/23 70/5 77/2 78/8 79/8 99/16 99/23 100/19 111/21 114/19 121/18 133/10 134/13 142/20 154/19 158/19 167/2 AI [1] 94/7 aides [1] 108/6 air [1] 137/20 ALACHUA [15] 1/5 3/7 5/22 8/2 11/6 13/10 20/21 22/20 23/1 23/22 23/25 24/15 51/12 54/7 56/12 Albert [1] 3/18 alignment [1] 60/16 all [126] 3/9 5/9 5/12 8/10 9/3 10/17 10/25 16/3 18/10 18/19 21/14 23/18 25/22 28/12 29/16 30/18 30/21 31/14 36/9 38/4 39/15 40/10 41/16 41/24 42/25 43/1 44/5 45/7 46/6 49/8 49/17 49/21 53/2 53/18 58/8 60/10 65/14 70/5 71/10 71/10 75/17 76/17 76/25 77/3 77/13 77/20 78/5 78/12 79/6 80/24 86/6 87/1 88/22 93/24 96/12 97/21 98/3 99/17 100/11 100/15 102/15 109/18 109/20 112/18 113/5 113/15 114/6 114/13 117/10 117/25 118/6 118/14 118/20 118/24 119/9 120/19 121/13 123/3 123/12 125/18 126/2 126/5 126/8 126/18 128/2 128/22 129/1 130/13 130/17 131/7 134/12 139/16 139/20 140/15 140/20 141/7 141/11 142/2 142/19 143/17 144/17 145/2 145/8 145/20 148/6 149/3 152/19 153/6 155/18 156/9 157/11 158/2 158/15 162/12 164/11 165/3 165/8 165/15 165/22 166/11 166/13 167/1 167/11 168/10 168/13 168/13 alleged [2] 146/16 155/24 alleges [1] 23/25 allocated [6] 79/25 81/9 125/4 141/22 143/6 143/24 allocation [4] 63/4 120/3 122/25 125/5 allocations [2] 23/24 163/12 allow [5] 25/19 60/18 68/20 83/19 154/17 allowed [5] 19/20 22/1 42/22 48/21 85/6 almost [3] 28/22 110/21 127/18 along [4] 19/6 23/24 38/20 62/14 alongside [1] 6/8 already [17] 11/17 24/4 25/19 30/3 31/8 60/10 60/13 74/5 92/4 103/6 109/10 129/16 129/25 131/2 134/20 148/23 158/5 also [40] 3/11 3/16 3/18 7/21 8/20 11/6 14/10 15/7 20/23 23/22 27/15 41/6 48/19 49/11 51/10 51/17 59/6 59/25 60/8 61/19 63/8 66/14 67/16 77/24</p>
<p>9 91 [1] 131/25 92 [15] 16/23 18/5 19/17 22/10 22/11 23/8 23/21 62/7 80/19 81/21 82/23 93/2 93/14 131/25 139/18 928 [1] 127/12 946 [1] 121/8 9:41 [1] 1/12</p>	<p>9 91 [1] 131/25 92 [15] 16/23 18/5 19/17 22/10 22/11 23/8 23/21 62/7 80/19 81/21 82/23 93/2 93/14 131/25 139/18 928 [1] 127/12 946 [1] 121/8 9:41 [1] 1/12</p>	<p>agreements [1] 58/22 ahead [29] 3/2 3/22 5/3 9/2 31/5 40/5 43/14 49/22 53/7 53/11 54/19 64/9 67/23 70/5 77/2 78/8 79/8 99/16 99/23 100/19 111/21 114/19 121/18 133/10 134/13 142/20 154/19 158/19 167/2 AI [1] 94/7 aides [1] 108/6 air [1] 137/20 ALACHUA [15] 1/5 3/7 5/22 8/2 11/6 13/10 20/21 22/20 23/1 23/22 23/25 24/15 51/12 54/7 56/12 Albert [1] 3/18 alignment [1] 60/16 all [126] 3/9 5/9 5/12 8/10 9/3 10/17 10/25 16/3 18/10 18/19 21/14 23/18 25/22 28/12 29/16 30/18 30/21 31/14 36/9 38/4 39/15 40/10 41/16 41/24 42/25 43/1 44/5 45/7 46/6 49/8 49/17 49/21 53/2 53/18 58/8 60/10 65/14 70/5 71/10 71/10 75/17 76/17 76/25 77/3 77/13 77/20 78/5 78/12 79/6 80/24 86/6 87/1 88/22 93/24 96/12 97/21 98/3 99/17 100/11 100/15 102/15 109/18 109/20 112/18 113/5 113/15 114/6 114/13 117/10 117/25 118/6 118/14 118/20 118/24 119/9 120/19 121/13 123/3 123/12 125/18 126/2 126/5 126/8 126/18 128/2 128/22 129/1 130/13 130/17 131/7 134/12 139/16 139/20 140/15 140/20 141/7 141/11 142/2 142/19 143/17 144/17 145/2 145/8 145/20 148/6 149/3 152/19 153/6 155/18 156/9 157/11 158/2 158/15 162/12 164/11 165/3 165/8 165/15 165/22 166/11 166/13 167/1 167/11 168/10 168/13 168/13 alleged [2] 146/16 155/24 alleges [1] 23/25 allocated [6] 79/25 81/9 125/4 141/22 143/6 143/24 allocation [4] 63/4 120/3 122/25 125/5 allocations [2] 23/24 163/12 allow [5] 25/19 60/18 68/20 83/19 154/17 allowed [5] 19/20 22/1 42/22 48/21 85/6 almost [3] 28/22 110/21 127/18 along [4] 19/6 23/24 38/20 62/14 alongside [1] 6/8 already [17] 11/17 24/4 25/19 30/3 31/8 60/10 60/13 74/5 92/4 103/6 109/10 129/16 129/25 131/2 134/20 148/23 158/5 also [40] 3/11 3/16 3/18 7/21 8/20 11/6 14/10 15/7 20/23 23/22 27/15 41/6 48/19 49/11 51/10 51/17 59/6 59/25 60/8 61/19 63/8 66/14 67/16 77/24</p>
<p>A a.m [1] 1/12 ability [7] 20/7 63/8 73/16 89/16 103/19 147/17 152/12 able [14] 17/9 30/18 59/15 72/4 78/23 80/16 105/23 106/17 108/17 111/17 137/8 147/17 151/15 160/12 about [46] 5/10 10/25 18/4 20/22 33/13 36/22 37/10 38/25 39/1 46/22 53/18 54/21 63/4 63/25 64/24 67/4 69/9 69/25 71/7 72/20 73/18 77/17 78/5 84/13 84/14 91/17 94/21 102/12 102/14 102/19 102/19 110/5 110/18 116/13 121/3 127/16 127/18 129/20 131/22 132/16 143/5 144/2 150/18 155/20 157/11 162/20 above [2] 43/7 66/16 absent [1] 83/14 absolutely [2] 17/18 115/22 abstained [1] 61/1 abutting [1] 60/12 Academia [1] 64/14 accepted [1] 86/14 access [5] 23/5 23/6 51/15 60/3 96/9 accommodate [1] 150/4 accordance [2] 36/1 133/23 according [4] 14/10 27/1 35/4 37/6 accordingly [1] 20/11 account [8] 92/1 92/6 92/7 92/15 93/10 142/7 148/24 156/5 accounting [1] 59/21 accounts [2] 130/18 150/3 achieve [1] 6/18 acknowledge [1] 6/4 across [2] 25/8 156/13 action [4] 51/5 109/1 169/14 169/15 actions [1] 109/2 activities [1] 121/6 actual [10] 15/18 15/19 16/8 26/17 33/11 76/12 82/11 82/21 124/8 150/5 actually [30] 22/7 32/9 32/10 32/13 34/15 47/24 47/25 49/16 56/14 62/8 62/13 63/16 65/21 81/12 82/25 86/3</p>	<p>A a.m [1] 1/12 ability [7] 20/7 63/8 73/16 89/16 103/19 147/17 152/12 able [14] 17/9 30/18 59/15 72/4 78/23 80/16 105/23 106/17 108/17 111/17 137/8 147/17 151/15 160/12 about [46] 5/10 10/25 18/4 20/22 33/13 36/22 37/10 38/25 39/1 46/22 53/18 54/21 63/4 63/25 64/24 67/4 69/9 69/25 71/7 72/20 73/18 77/17 78/5 84/13 84/14 91/17 94/21 102/12 102/14 102/19 102/19 110/5 110/18 116/13 121/3 127/16 127/18 129/20 131/22 132/16 143/5 144/2 150/18 155/20 157/11 162/20 above [2] 43/7 66/16 absent [1] 83/14 absolutely [2] 17/18 115/22 abstained [1] 61/1 abutting [1] 60/12 Academia [1] 64/14 accepted [1] 86/14 access [5] 23/5 23/6 51/15 60/3 96/9 accommodate [1] 150/4 accordance [2] 36/1 133/23 according [4] 14/10 27/1 35/4 37/6 accordingly [1] 20/11 account [8] 92/1 92/6 92/7 92/15 93/10 142/7 148/24 156/5 accounting [1] 59/21 accounts [2] 130/18 150/3 achieve [1] 6/18 acknowledge [1] 6/4 across [2] 25/8 156/13 action [4] 51/5 109/1 169/14 169/15 actions [1] 109/2 activities [1] 121/6 actual [10] 15/18 15/19 16/8 26/17 33/11 76/12 82/11 82/21 124/8 150/5 actually [30] 22/7 32/9 32/10 32/13 34/15 47/24 47/25 49/16 56/14 62/8 62/13 63/16 65/21 81/12 82/25 86/3</p>	<p>agreements [1] 58/22 ahead [29] 3/2 3/22 5/3 9/2 31/5 40/5 43/14 49/22 53/7 53/11 54/19 64/9 67/23 70/5 77/2 78/8 79/8 99/16 99/23 100/19 111/21 114/19 121/18 133/10 134/13 142/20 154/19 158/19 167/2 AI [1] 94/7 aides [1] 108/6 air [1] 137/20 ALACHUA [15] 1/5 3/7 5/22 8/2 11/6 13/10 20/21 22/20 23/1 23/22 23/25 24/15 51/12 54/7 56/12 Albert [1] 3/18 alignment [1] 60/16 all [126] 3/9 5/9 5/12 8/10 9/3 10/17 10/25 16/3 18/10 18/19 21/14 23/18 </p>

<p>A</p> <p>also... [16] 82/4 84/15 92/20 94/16 96/6 97/1 103/18 104/7 104/10 106/18 114/1 122/20 124/21 141/21 163/5 168/3</p> <p>alternate [2] 85/7 89/17</p> <p>alternative [1] 33/8</p> <p>always [4] 29/7 78/15 83/10 167/16</p> <p>am [8] 4/18 8/1 11/5 63/11 74/18 169/11 169/13 169/14</p> <p>AMANDA [2] 2/2 3/14</p> <p>amended [1] 30/9</p> <p>amount [10] 16/12 21/25 55/10 62/23 88/5 117/15 120/7 131/18 143/24 154/25</p> <p>analysis [2] 97/3 137/23</p> <p>another [7] 4/22 54/23 76/1 98/11 104/15 129/19 149/20</p> <p>answer [25] 19/14 29/24 30/1 32/22 34/20 65/13 69/21 70/6 70/12 70/20 70/25 71/18 72/2 75/20 76/3 84/6 87/3 96/16 107/23 108/9 110/7 138/1 140/4 149/23 152/15</p> <p>answerable [1] 58/1</p> <p>answered [7] 34/21 55/15 79/4 83/16 117/19 121/9 150/23</p> <p>answers [3] 69/7 92/15 102/8</p> <p>anticipate [3] 15/23 18/21 131/9</p> <p>anticipated [1] 135/19</p> <p>anticipating [1] 157/4</p> <p>anticipation [1] 89/20</p> <p>any [94] 7/4 8/6 10/24 14/12 15/13 22/7 28/9 28/13 29/17 30/14 31/2 34/1 34/23 50/3 51/1 52/15 55/16 56/17 59/3 64/6 66/11 66/25 68/21 69/3 69/7 71/8 71/18 71/19 71/22 73/23 76/1 84/8 84/23 84/25 85/22 88/25 97/4 97/9 98/20 99/7 99/9 99/12 100/19 105/25 110/14 110/25 111/1 113/3 114/21 114/24 115/12 116/4 118/2 118/22 121/13 124/13 124/24 125/8 126/6 127/24 128/19 129/2 132/9 132/24 133/18 134/4 134/10 136/15 138/9 138/20 140/5 140/18 144/6 144/15 145/6 147/7 147/11 148/7 149/13 149/20 153/4 153/20 156/17 157/20 158/16 159/7 160/16 163/12 164/25 165/19 166/23 167/19 169/12 169/13</p> <p>anybody [2] 49/3 94/6</p> <p>anymore [3] 102/7 132/18 138/23</p> <p>anyone [4] 37/23 110/19 140/8 153/6</p> <p>anyone's [1] 115/23</p> <p>anything [22] 20/6 34/8 34/9 35/22 52/10 68/23 69/11 73/5 83/15 86/10 87/17 96/8 100/14 110/18 117/21 120/9 134/6 135/19 148/16 161/25 168/5 168/8</p> <p>apologies [3] 79/14 126/23 148/12</p> <p>apologize [1] 42/23</p> <p>apparently [1] 62/9</p> <p>appeal [31] 1/1 3/6 3/7 5/12 5/25 6/2 7/8 8/6 8/16 10/20 11/10 11/14 11/15 19/17 25/14 42/8 44/13 89/12 90/14 90/18 91/3 91/7 91/7 91/23 92/2 92/11 103/25 117/18 164/19 166/14 167/22</p> <p>appealed [2] 5/23 90/24</p> <p>appear [3] 17/12 74/11 95/18</p> <p>appeared [2] 31/22 36/18</p> <p>APPEARING [1] 2/1</p>	<p>appears [2] 40/14 111/12</p> <p>appellant [1] 22/11</p> <p>appellant's [1] 119/23</p> <p>appellate [2] 21/5 92/12</p> <p>appellee [1] 82/14</p> <p>applaud [1] 82/1</p> <p>applicable [1] 25/11</p> <p>applicant [38] 6/5 8/17 12/18 13/23 14/4 14/21 15/24 16/10 17/13 18/21 19/2 26/22 27/5 27/17 34/6 35/7 36/13 36/20 56/19 62/2 70/10 73/1 75/14 80/25 82/15 83/20 89/7 109/22 120/13 120/20 126/23 127/16 133/7 133/11 137/10 142/3 146/14 158/22</p> <p>Applicant's [10] 11/11 13/25 14/15 33/12 36/15 100/16 114/16 119/11 126/25 165/12</p> <p>application [152] 5/13 5/15 5/18 5/22 5/24 6/12 9/1 11/11 11/23 13/1 16/11 16/13 16/16 16/24 17/17 18/4 18/19 18/23 19/13 19/24 20/22 20/24 21/9 21/13 21/17 21/19 22/5 23/2 23/22 23/23 24/1 25/7 25/10 25/19 30/4 42/18 42/20 46/18 47/5 47/11 47/12 50/14 51/5 53/5 56/25 57/7 58/8 65/18 65/21 66/10 66/15 67/5 68/1 68/17 71/1 72/9 73/4 73/21 74/12 75/21 75/23 75/24 76/7 76/12 76/15 76/22 76/24 78/19 80/12 80/14 81/11 83/2 84/4 85/24 85/25 87/1 87/3 87/20 87/21 89/1 89/13 90/19 91/11 91/18 91/19 92/25 93/24 94/5 94/7 95/17 95/20 96/4 96/5 96/18 97/3 98/12 98/13 104/19 104/23 105/2 105/25 106/10 106/14 108/5 109/12 109/22 110/3 110/25 116/16 122/17 123/23 127/1 127/21 128/6 128/9 128/24 130/15 130/22 131/17 131/25 132/1 133/16 137/13 138/3 139/2 139/3 139/9 139/10 139/13 142/6 142/7 142/9 143/5 146/7 146/12 146/22 150/2 150/6 155/14 156/2 156/8 156/16 157/20 157/21 159/13 159/18 159/24 160/3 164/16 166/14 166/16 166/19</p> <p>applications [4] 86/12 93/12 108/24 144/1</p> <p>applied [2] 20/10 85/18</p> <p>applies [1] 149/15</p> <p>apply [2] 85/8 91/7</p> <p>applying [2] 13/4 85/21</p> <p>appreciate [1] 3/9</p> <p>appreciated [1] 47/8</p> <p>appropriate [5] 31/16 42/3 83/21 94/1 95/19</p> <p>appropriately [3] 108/5 108/22 127/22</p> <p>appropriateness [1] 127/17</p> <p>approval [4] 5/24 11/10 19/13 25/7</p> <p>approve [6] 5/17 5/21 91/20 92/14 155/13 167/20</p> <p>approved [8] 18/23 25/10 25/20 59/7 84/4 86/6 86/8 90/19</p> <p>approving [5] 11/22 83/2 91/10 94/9 155/17</p> <p>approximately [1] 119/21</p> <p>April [5] 11/15 13/8 13/8 13/8 13/13</p> <p>April 12th [1] 13/8</p> <p>April 17 [1] 13/13</p> <p>April 30th [1] 11/15</p> <p>April 5th [1] 13/8</p>	<p>arbitrator [4] 13/12 13/13 27/20 33/15</p> <p>Archer [2] 56/11 60/12</p> <p>are [128] 3/16 6/3 6/9 7/8 7/21 10/12 10/22 11/16 19/9 19/15 20/20 22/18 24/19 30/11 33/13 35/23 35/25 38/18 38/18 39/8 41/9 41/10 44/5 45/25 46/3 47/12 48/12 48/13 48/21 49/6 49/8 52/1 52/2 52/16 58/18 60/18 61/14 62/5 62/7 62/12 63/9 63/12 63/24 64/12 64/14 65/6 67/19 73/24 74/6 74/15 75/9 75/10 75/11 76/17 77/22 78/9 79/3 79/3 79/14 83/21 83/21 83/25 84/23 85/5 87/2 87/6 87/13 87/24 90/1 92/11 93/23 94/4 96/14 97/9 97/11 99/9 99/12 101/8 106/20 107/21 108/24 109/9 109/10 110/22 112/2 112/7 113/21 114/12 117/7 117/19 118/6 119/18 120/9 121/6 122/3 124/7 124/22 128/22 128/22 130/16 130/18 134/14 134/22 134/25 135/17 135/18 138/11 141/18 141/22 142/3 142/6 144/17 146/11 148/5 149/11 150/20 151/15 154/9 155/13 156/11 157/3 158/6 158/7 158/12 158/13 161/10 162/6 169/9</p> <p>area [9] 55/22 55/23 56/1 57/3 57/16 66/1 66/7 66/8 75/5</p> <p>areas [10] 8/25 56/10 80/25 82/8 139/12 139/16 139/20 151/11 155/5 155/7</p> <p>argue [2] 18/21 47/23</p> <p>arguing [1] 41/13</p> <p>argument [9] 20/13 27/4 28/6 38/22 45/24 48/8 48/20 49/17 80/3</p> <p>arguments [14] 6/9 6/20 6/23 7/7 7/12 8/18 8/23 9/12 21/23 21/24 26/4 79/8 88/7 99/17</p> <p>arise [2] 4/11 66/5</p> <p>arises [1] 5/13</p> <p>Arnold [9] 19/6 32/2 34/12 67/3 68/14 69/7 115/13 117/13 117/16</p> <p>around [4] 5/8 54/11 106/16 126/20</p> <p>arrangements [2] 48/17 49/8</p> <p>arrested [1] 54/16</p> <p>article [2] 41/22 160/10</p> <p>articles [1] 123/22</p> <p>articulate [2] 65/18 98/8</p> <p>articulated [4] 74/12 106/14 115/9 144/12</p> <p>articulation [1] 68/3</p> <p>as [178]</p> <p>aside [3] 71/4 71/6 163/4</p> <p>ask [33] 4/23 7/3 18/8 18/9 19/19 25/15 25/18 26/19 29/18 58/14 59/2 78/15 81/20 81/23 82/17 82/22 83/24 84/6 89/2 92/8 94/2 94/3 94/10 97/25 99/13 99/24 102/18 107/24 115/14 137/16 150/11 152/6 168/1</p> <p>asked [11] 31/8 36/12 43/19 54/9 72/25 74/5 107/8 113/20 117/13 150/24 152/8</p> <p>asking [10] 23/6 31/21 41/11 42/11 74/2 74/4 94/11 94/21 99/6 117/6</p> <p>assembled [1] 21/17</p> <p>asserted [1] 97/4</p> <p>assessment [8] 9/5 17/22 23/23 88/24 97/10 97/17 98/6 99/4</p> <p>asset [2] 56/4 60/2</p> <p>assign [1] 50/17</p> <p>assigned [1] 50/25</p>
--	---	---

**A**  
 assist [3] 6/14 65/8 137/23  
 assistant [2] 3/21 66/17  
 associated [1] 40/17  
 assume [1] 151/1  
 assumes [1] 142/14  
 assumption [2] 43/4 121/24  
 attached [2] 12/7 38/13  
 attachment [4] 73/6 73/7 142/7 159/14  
 attack [1] 88/9  
 attempt [2] 24/16 80/5  
 attempted [2] 59/10 61/20  
 attempting [1] 12/6  
 attempts [1] 19/19  
 attend [4] 56/9 61/10 132/25 133/4  
 attendance [3] 13/14 17/5 62/3  
 attended [3] 60/23 60/24 108/3  
 attending [2] 66/1 123/19  
 attention [5] 14/18 28/24 30/10 35/16 81/15  
 attorney [4] 34/6 67/3 169/12 169/14  
 attract [1] 123/25  
 auditor [1] 34/13  
 auditor's [1] 33/22  
 August [2] 1/11 3/6  
 August 25th [1] 3/6  
 authority [3] 29/22 32/15 151/16  
 authorizer's [1] 89/17  
 available [5] 104/11 104/18 109/6 124/3 124/7  
 avenue [1] 42/6  
 average [5] 129/23 131/21 160/21 161/1 161/3  
 avidly [1] 59/11  
 aware [2] 36/13 36/20  
 away [3] 57/18 147/9 163/13

**B**  
 back [29] 16/1 17/11 30/17 31/24 34/2 35/9 38/9 43/17 43/18 43/20 51/19 59/5 66/4 71/10 72/10 77/16 77/22 91/24 95/9 101/12 113/22 113/23 113/24 113/24 113/25 114/12 115/4 117/17 146/2  
 backed [1] 19/13  
 background [2] 11/9 53/14  
 backing [2] 73/19 74/9  
 backup [3] 70/4 70/17 142/10  
 backwards [1] 126/24  
 bad [1] 82/24  
 balance [1] 138/6  
 balanced [1] 4/13  
 ballot [2] 13/18 26/17  
 ballots [2] 13/15 13/15  
 barely [2] 31/6 143/16  
 based [24] 6/16 10/13 25/11 31/16 53/20 61/9 78/14 78/18 83/12 83/22 92/10 95/10 96/6 108/13 111/10 111/12 131/24 137/17 142/11 142/15 150/5 157/20 160/21 161/2  
 basic [1] 40/12  
 basically [14] 36/3 52/5 53/16 63/25 91/25 109/8 115/18 116/4 116/15 119/17 125/13 159/16 161/16 164/2  
 basis [5] 49/18 98/9 98/10 98/19 143/4  
 be [194]  
 Beach [1] 167/24  
 became [2] 36/13 36/20  
 because [76] 6/2 7/3 7/19 8/21 10/16 23/11 23/13 25/5 28/4 28/10 28/20

29/5 32/13 34/4 34/18 39/11 41/23 42/11 42/16 44/12 49/13 55/9 56/3 58/17 59/20 60/4 60/21 62/22 67/13 68/1 72/2 73/3 74/3 74/19 75/15 80/21 94/4 94/15 101/5 101/11 102/25 103/6 104/17 109/18 110/21 111/5 112/4 121/25 127/6 127/21 129/5 130/4 130/21 131/16 132/4 132/24 133/2 133/24 134/15 134/22 135/11 135/24 136/6 144/12 147/25 148/18 149/10 149/10 150/11 151/2 152/6 156/19 156/25 157/2 157/5 162/20  
 become [4] 60/9 60/14 67/8 138/12  
 becomes [2] 132/15 152/24  
 beef [1] 135/22  
 been [57] 3/19 4/9 7/2 7/4 8/8 9/16 14/6 23/15 25/19 29/12 31/23 33/7 33/11 33/16 33/17 33/18 36/13 36/21 37/8 42/7 42/7 42/11 43/16 54/16 56/23 57/9 59/19 59/21 61/16 63/25 69/10 71/11 78/12 79/25 80/8 83/10 84/4 85/9 86/6 91/21 99/20 102/1 103/4 103/7 108/22 113/20 117/19 124/19 127/15 132/1 137/5 151/3 159/1 159/19 160/18 162/21 163/12  
 before [46] 4/9 4/17 12/16 21/3 26/14 28/7 28/11 28/17 29/5 36/6 61/22 62/18 63/3 69/6 70/14 71/17 76/13 76/14 78/6 78/9 78/10 78/19 80/22 83/14 84/2 85/19 89/2 89/12 91/22 93/25 95/12 99/8 99/20 120/19 127/23 135/8 135/23 141/25 142/1 154/22 160/13 162/6 165/20 167/23 168/2 169/6  
 begin [2] 8/15 19/22  
 beginning [8] 40/10 117/9 123/3 123/17 143/10 148/25 155/3 159/1  
 behalf [3] 93/3 101/23 128/4  
 behind [2] 39/10 39/19  
 being [36] 3/9 6/6 23/8 27/13 28/12 30/22 37/1 37/19 43/5 47/8 52/8 53/20 54/10 54/17 55/8 55/13 56/5 57/20 59/22 62/23 63/6 65/20 67/12 68/15 74/7 76/7 91/18 102/14 102/15 108/17 109/25 111/17 117/20 123/6 125/6 144/4  
 believe [23] 8/7 25/23 33/24 34/4 36/16 37/9 40/10 47/19 57/19 67/15 82/9 90/25 91/2 93/6 94/6 94/18 101/15 106/18 110/24 125/7 149/25 158/24 163/8  
 believed [1] 53/22  
 believes [2] 66/6 95/5  
 below [2] 90/19 95/6  
 benefit [6] 9/20 16/16 66/6 113/18 134/16 143/14  
 benefits [3] 25/1 25/2 29/1  
 best [5] 5/1 106/6 110/20 111/9 138/17  
 better [7] 10/24 33/7 58/7 68/11 75/14 75/19 146/20  
 between [7] 23/16 25/20 43/15 62/5 70/19 92/13 115/5  
 beyond [3] 30/2 82/6 157/4  
 bigger [1] 162/3  
 biggest [1] 37/19  
 Bill [3] 128/19 147/7 157/11  
 bit [17] 4/8 6/2 10/8 12/1 38/8 41/8 53/14 68/6 68/7 75/19 92/3 111/14 111/20 116/3 130/11 149/21 161/15  
 blueprints [1] 134/17

board [112] 1/5 3/7 5/22 6/7 6/15 6/17 6/21 8/2 8/6 8/16 9/1 10/15 10/19 11/5 11/8 11/13 11/14 12/13 12/17 12/21 14/1 14/11 14/20 15/1 16/11 16/17 16/23 17/2 17/4 18/1 18/14 18/20 19/17 23/17 24/22 26/6 27/2 27/3 27/13 32/25 33/6 37/3 37/7 38/13 38/17 38/17 38/20 42/1 42/4 46/11 47/3 47/6 48/7 48/13 48/14 48/15 50/1 54/7 56/1 57/10 58/1 59/1 59/17 60/9 60/9 60/13 60/15 62/10 62/12 62/13 63/9 67/5 67/6 67/8 67/12 67/13 68/4 69/16 69/23 70/19 70/22 71/23 72/24 74/24 75/7 75/9 75/11 75/15 76/11 78/14 79/5 79/11 95/10 98/11 101/24 103/12 107/7 120/12 124/12 124/17 126/22 129/25 131/11 132/19 137/11 150/17 156/13 162/17 166/18 167/21 167/23 168/1  
 board's [12] 8/16 11/20 15/6 16/22 18/2 20/13 36/17 38/15 66/22 81/13 83/19 84/21  
 bodies [2] 21/6 40/17  
 body [1] 66/9  
 books [1] 85/1  
 both [26] 6/10 10/6 19/14 20/25 21/23 30/21 35/25 37/3 37/21 38/3 40/4 41/15 42/19 46/8 53/15 68/16 70/11 87/3 108/25 111/9 115/24 124/4 133/15 136/19 142/24 154/18  
 bottom [3] 85/19 87/19 167/14  
 bought [1] 151/10  
 brand [1] 89/13  
 Braun [2] 3/17 101/21  
 break [10] 5/5 61/21 77/16 80/15 80/15 96/11 99/21 104/17 114/7 114/14  
 breaks [2] 125/12 163/14  
 breath [1] 10/15  
 brevity [1] 141/18  
 brief [16] 6/21 22/15 22/17 28/6 28/8 29/8 32/13 50/10 70/1 70/3 70/11 70/12 80/9 88/15 154/14 162/24  
 briefed [3] 28/11 46/16 48/9  
 briefing [5] 29/6 33/12 69/16 70/8 70/9  
 briefly [3] 33/3 133/14 142/4  
 bring [6] 28/7 66/1 87/8 90/7 93/17 113/25  
 bringing [1] 62/11  
 brings [2] 28/4 145/20  
 broadbrush [1] 84/10  
 brought [8] 21/21 28/23 30/9 35/16 62/4 94/19 116/5 158/2  
 budget [65] 9/10 23/1 23/24 24/9 24/12 24/13 24/14 89/15 102/16 103/8 111/4 115/10 115/11 116/2 116/7 120/6 120/10 122/25 123/13 125/11 129/24 130/3 130/17 130/23 131/5 132/4 135/20 138/6 143/2 143/23 148/23 149/2 149/6 150/1 150/7 152/21 154/10 154/21 155/24 156/1 156/5 156/16 156/18 156/20 157/3 157/18 157/21 157/25 158/7 158/21 158/25 159/5 160/16 160/20 161/2 161/17 162/5 163/3 163/6 163/13 163/17 165/1 165/5 165/12 165/20  
 budgetary [2] 156/14 157/16  
 budgeted [8] 131/18 142/5 143/3 144/13 147/3 148/21 149/4 156/23  
 budgeting [1] 108/6  
 build [1] 111/4

**B**  
building [5] 23/13 23/14 136/14 136/22 137/3  
built [3] 55/20 63/13 158/23  
bulk [2] 123/7 136/13  
bump [1] 161/15  
bus [3] 142/10 142/10 156/23  
buses [1] 108/7  
business [1] 146/6  
bylaws [3] 49/25 50/10 52/3

**C**  
cafeteria [2] 5/9 114/1  
call [16] 3/22 8/11 45/12 69/20 77/4 100/1 104/8 113/5 118/24 126/9 140/21 145/9 153/22 165/23 167/2 167/17  
called [3] 64/16 92/2 92/4  
came [19] 39/20 39/25 40/23 43/17 53/18 53/25 54/11 54/12 54/20 55/2 55/3 56/2 59/24 135/24 139/15 139/16 139/19 139/20 148/2  
campaign [2] 54/13 55/9  
campus [2] 146/25 148/18  
can [101] 4/21 5/8 5/10 7/5 7/14 8/20 9/10 10/15 10/25 15/17 16/2 22/21 24/6 30/18 32/4 33/1 36/7 38/11 39/14 44/7 44/25 46/11 49/12 49/16 52/2 52/12 53/5 53/7 53/9 53/11 53/17 54/19 57/5 61/14 64/11 65/8 68/10 71/10 71/24 71/25 77/17 77/25 78/1 78/2 79/19 79/21 89/2 90/4 90/6 90/8 90/10 90/11 90/24 91/23 92/1 92/6 92/6 92/8 92/14 93/14 93/19 94/6 95/9 95/24 96/11 96/14 96/16 97/8 99/13 99/23 101/24 104/2 105/4 106/24 109/10 109/18 112/19 113/25 114/8 114/25 117/3 117/15 122/4 128/16 131/1 132/1 134/1 134/12 136/25 141/13 143/16 144/2 151/7 156/13 159/5 159/11 160/25 161/2 164/7 166/5 167/18  
can't [17] 7/13 7/15 27/24 35/18 36/22 39/24 72/22 95/25 96/9 109/14 137/7 137/19 137/20 140/3 161/12 164/10 165/6  
cannot [9] 4/23 27/22 28/25 30/2 35/19 44/3 71/18 137/2 157/19  
capacity [18] 17/1 50/4 51/1 51/18 57/2 61/9 68/7 78/20 81/20 81/22 93/17 93/24 101/12 123/22 127/13 159/10 160/9 163/8  
capital [7] 59/16 129/7 134/2 134/4 134/9 136/10 146/19  
care [1] 136/11  
careful [1] 154/24  
carried [1] 106/6  
carries [11] 45/22 77/14 100/12 113/16 119/10 126/19 141/6 145/19 154/8 166/12 167/12  
carry [1] 137/4  
carrying [1] 37/17  
case [18] 13/3 25/4 28/5 29/4 30/10 46/23 48/14 55/4 55/5 82/14 91/22 92/12 101/22 128/15 131/6 139/9 159/4 167/25  
cases [2] 29/8 58/20  
caught [1] 115/3  
cause [7] 18/22 23/9 87/2 110/2 110/13 117/2 157/20

CCR [2] 1/15 169/20  
cemetary [1] 135/4  
cent [1] 59/7  
centers [1] 134/11  
CEP [4] 149/9 150/13 150/19 151/5  
CEPs [1] 150/18  
certain [11] 11/7 32/4 54/6 58/25 62/5 67/12 112/2 121/6 132/19 136/11 137/3  
Certain's [1] 63/24  
certainly [4] 23/7 63/16 96/14 137/22  
certainty [1] 71/18  
CERTIFICATE [1] 169/1  
certify [3] 34/16 169/5 169/11  
chain [1] 42/1  
CHAIR [5] 2/2 3/15 11/7 19/5 115/15  
Chair's [1] 82/16  
challenge [14] 13/23 15/16 15/20 33/11 33/17 36/24 39/22 40/24 42/4 42/6 42/7 43/10 43/23 85/9  
challenged [4] 15/12 15/19 43/11 43/23  
challenging [3] 15/18 43/24 127/6  
chance [3] 32/19 85/12 87/14  
Chancellor [1] 20/8  
change [11] 21/2 33/8 42/2 42/21 44/2 49/14 59/10 59/18 59/24 122/20 149/9  
changed [7] 14/4 14/23 15/17 28/23 106/2 108/25 109/2  
changes [4] 15/10 39/15 43/5 132/23  
changing [3] 35/15 122/1 122/21  
characterization [1] 67/17  
characterize [1] 24/16  
characterized [1] 80/18  
charge [5] 47/20 51/10 51/13 54/24 122/14  
charged [3] 35/23 37/1 37/19  
charging [1] 48/25  
chart [9] 66/15 68/2 161/13 161/19 161/23 161/24 162/1 162/20 162/22  
charter [103] 1/1 3/5 3/20 4/15 5/14 5/15 5/17 5/23 11/13 12/3 14/7 17/5 17/17 18/18 19/7 19/11 19/22 22/23 23/4 23/4 23/11 23/12 24/17 24/19 25/10 25/25 30/5 43/2 44/16 45/4 47/5 47/13 47/16 48/11 48/12 48/18 49/10 49/13 49/19 50/2 50/17 50/20 51/1 52/14 54/3 56/3 63/2 63/19 64/12 64/13 66/3 66/7 67/13 71/3 71/9 71/15 72/9 73/17 74/17 74/23 75/2 75/3 75/6 75/15 76/23 76/24 85/8 86/2 86/24 88/5 90/19 90/22 90/25 91/3 95/16 96/2 96/5 96/21 101/6 128/5 128/21 129/6 129/12 131/4 131/17 133/15 133/16 133/22 133/23 133/24 135/21 138/25 139/7 139/11 139/23 139/24 149/10 149/11 151/4 152/12 152/16 166/16 166/18  
check [3] 43/12 113/24 130/9  
child's [1] 104/18  
children [1] 56/5  
choice [5] 43/17 57/13 59/25 60/17 88/18  
chose [1] 49/2  
chosen [2] 28/19 49/4  
Christmas [1] 80/15  
circulated [1] 60/15  
circumstance [1] 109/24  
citation [1] 151/24  
cite [4] 24/11 26/17 91/24 151/19  
cited [2] 29/8 50/9

cites [1] 26/16  
city [76] 16/10 17/6 17/9 17/15 24/20 47/6 47/13 47/15 47/18 47/21 48/1 48/5 48/12 48/15 49/3 50/12 50/15 50/16 50/21 50/23 51/6 51/11 51/14 51/18 51/19 52/7 52/12 53/25 55/13 55/18 56/6 56/8 60/6 64/22 65/1 65/19 65/22 65/24 66/2 66/11 66/16 67/8 67/18 68/3 68/21 68/25 69/4 69/8 69/9 69/20 69/24 70/19 71/2 71/8 71/12 71/24 73/8 73/10 73/11 74/7 74/23 75/4 75/7 75/8 75/10 75/12 75/16 76/3 76/5 76/14 84/16 159/2 159/6 159/15 163/10 163/15  
City's [3] 24/25 46/22 47/7  
claim [3] 23/10 24/10 24/18  
claimed [1] 23/1  
claims [1] 23/22  
clarification [8] 29/24 95/15 95/21 101/11 117/5 121/17 129/5 131/16  
clarify [4] 29/19 44/7 72/7 162/9  
clarifying [4] 12/20 92/9 133/6 134/15  
clarity [3] 14/12 41/8 57/5  
class [1] 105/12  
class-size [1] 105/12  
classes [1] 106/21  
classroom [4] 116/23 121/5 160/22 161/3  
classrooms [1] 156/6  
clear [15] 21/5 22/22 28/4 28/15 30/10 32/6 36/2 42/12 56/19 56/24 68/9 100/23 102/17 104/19 124/2  
clearly [15] 11/21 23/3 23/23 24/2 24/24 29/21 35/4 55/15 68/20 74/12 75/3 104/20 128/7 128/24 146/22  
client [3] 68/20 69/4 101/23  
clients [1] 49/6  
close [3] 5/7 5/8 122/21  
closed [4] 18/5 37/8 50/18 50/22  
closer [2] 72/18 90/8  
Code [1] 96/17  
codified [2] 74/11 75/4  
cold [1] 147/20  
colleague's [1] 73/14  
colleagues [1] 31/7  
collections [1] 163/11  
college [2] 46/20 75/24  
come [12] 22/12 59/2 75/18 77/16 90/7 95/9 102/6 113/23 113/24 139/3 150/21 163/18  
comes [1] 152/18  
comfortable [1] 79/3  
coming [1] 47/3  
Commenced [1] 1/12  
comment [7] 110/17 115/17 137/7 137/9 142/22 163/1 163/20  
commentary [1] 106/19  
comments [40] 9/16 9/25 29/17 31/2 46/19 46/25 51/17 68/25 73/15 73/23 82/16 85/4 85/6 86/13 87/6 87/13 87/24 88/4 100/21 101/13 105/10 107/4 109/20 115/12 116/23 118/1 118/3 125/8 129/2 132/9 140/5 141/16 144/6 148/7 150/25 157/25 158/16 163/9 164/24 165/1  
COMMISSION [114] 1/1 2/1 3/6 3/12 3/15 3/18 3/21 4/9 5/14 5/17 5/19 6/6 6/10 6/12 8/19 9/15 10/11 11/18 11/22 12/2 14/18 15/7 15/25 17/21 18/7 18/9 18/17 18/24 19/5 25/18 26/21 27/8

<p>C</p> <p>COMMISSION... [82] 27/15 27/25  28/11 44/15 45/2 46/17 46/22 46/24  59/12 69/9 70/2 70/9 70/13 70/14  70/17 71/8 71/13 71/17 74/24 75/8  75/16 76/13 76/21 78/22 79/2 82/11  82/17 82/22 82/25 83/2 83/12 84/20  88/5 90/20 90/23 90/24 91/3 91/7 91/8  91/21 91/25 92/2 92/5 92/24 93/4 93/9  93/14 93/22 96/24 97/15 99/2 103/13  103/15 104/1 105/3 112/12 112/20  117/6 117/21 118/8 125/11 125/22  127/5 128/1 128/3 128/15 132/10  136/23 140/10 141/7 141/16 141/25  142/25 144/21 146/1 146/10 153/10  154/21 160/3 165/9 166/17 169/21  Commission's [3] 5/24 6/13 18/15  Commissioner [2] 6/14 47/1  Commissioner's [1] 3/15  Commissioners [3] 24/20 48/13 89/19  Commissions [1] 75/7  commitment [2] 73/10 159/14  commitments [1] 74/7  committee [7] 47/4 61/13 61/14 75/8  83/11 83/17 121/1  committees [1] 58/22  common [2] 20/16 27/4  communicate [2] 32/20 61/15  communication [6] 31/25 36/14 36/17  40/16 60/5 98/18  community [27] 1/7 3/8 14/19 19/7 25/2  53/20 53/25 55/5 58/2 59/7 59/20  59/20 60/3 60/5 60/8 61/9 61/11 61/17  61/23 62/14 62/21 63/10 64/4 66/9  73/9 128/5 166/19  companies [2] 64/13 72/8  company [8] 22/21 52/6 53/1 64/16  65/20 66/22 72/6 72/8  compare [1] 64/21  compared [1] 64/11  comparison [3] 96/2 161/9 162/22  compensated [1] 161/11  competent [34] 18/16 19/13 21/4 21/12  23/9 24/13 25/8 83/13 84/3 85/20  85/24 86/25 88/1 88/6 88/13 91/9  92/13 97/16 98/4 99/2 110/1 110/12  112/13 112/20 116/25 118/9 118/15  125/23 140/11 144/22 153/11 155/16  165/9 165/11  compile [1] 80/16  complaints [2] 22/18 63/24  complete [2] 80/10 123/1  completely [3] 49/1 67/16 84/17  complex [1] 25/4  compliance [1] 116/18  complied [1] 41/25  component [5] 121/19 121/20 122/10  144/5 160/14  components [4] 74/16 124/6 124/21  158/2  comprised [1] 66/9  computer [3] 90/7 91/1 91/24  concede [3] 7/6 20/1 21/4  conceded [1] 7/4  concept [1] 27/23  concern [13] 36/6 111/9 111/14 112/4  119/24 129/20 132/13 147/9 151/6  152/14 156/18 157/17 160/19  concerned [3] 40/9 156/5 156/25  concerns [60] 16/14 16/23 16/25 17/22</p>	<p>17/25 18/2 18/4 18/6 18/6 18/19 19/17  22/10 23/8 59/9 62/8 80/19 80/23 81/5  81/8 81/18 81/21 82/9 82/10 82/24  83/4 83/15 83/19 84/8 84/11 84/21  84/24 86/22 93/2 93/4 93/15 93/16  97/4 102/12 103/16 107/18 108/1  108/12 115/19 116/5 116/6 117/22  119/18 127/7 127/15 130/14 141/22  141/24 146/16 155/6 155/7 155/9  155/23 156/14 156/19 156/22  conclude [13] 97/17 98/5 99/3 112/14  112/21 118/10 118/16 125/24 140/12  144/23 153/12 165/10 165/11  concluded [2] 1/12 168/14  conclusion [1] 150/21  concrete [1] 120/5  concur [1] 43/20  condemned [1] 59/11  condition [2] 135/15 152/4  conditioner [1] 137/20  conduct [1] 16/3  conducted [5] 13/9 17/1 21/22 27/1  33/14  configured [1] 160/15  confirmed [1] 20/8  conflict [2] 32/11 32/19  conform [1] 69/2  confused [3] 41/9 67/25 102/23  confusion [1] 105/8  conjunction [4] 75/24 76/7 76/16  138/21  connected [1] 169/14  conservative [9] 130/23 149/2 149/6  156/21 157/3 157/18 158/21 159/5  160/15  conservatively [1] 130/22  consider [11] 6/1 28/10 60/11 87/8  92/24 93/11 94/24 94/24 96/20 101/24  128/16  consideration [1] 80/11  considered [7] 5/19 21/22 26/19 61/3  105/20 120/22 136/10  consistent [3] 12/21 13/25 35/12  consistently [2] 14/21 43/8  constraint [1] 87/14  construction [1] 135/8  consult [1] 64/18  contain [3] 78/14 84/3 91/19  contained [4] 24/11 82/13 101/25  155/12  contemplated [2] 137/5 163/6  contend [1] 62/18  content [4] 9/11 10/8 15/15 143/7  contention [1] 60/8  contentions [1] 21/16  contents [1] 47/12  contesting [1] 33/18  contingency [3] 109/14 138/7 157/8  continue [7] 23/20 62/8 111/18 135/25  136/14 149/5 151/2  continued [1] 23/15  continues [3] 24/15 138/6 138/18  continuing [2] 161/18 162/4  contract [10] 7/2 8/4 22/23 52/12 53/2  64/15 73/15 123/18 133/23 136/2  contracted [2] 65/12 65/20  contracting [1] 152/22  contracts [3] 48/15 48/18 48/23  contradiction [1] 31/17  contradicts [1] 20/15</p>	<p>contrary [1] 27/4  control [11] 54/2 57/8 60/3 60/19 60/20  66/2 67/19 69/3 72/9 72/10 72/19  controlled [1] 64/4  controls [9] 28/20 29/7 29/11 30/12  35/20 43/9 43/25 50/3 128/15  conversation [3] 69/8 88/20 143/21  conversations [3] 99/10 102/14 159/9  conversion [37] 8/24 11/13 12/11 13/6  13/17 17/17 18/18 19/23 20/4 26/2  31/1 31/11 33/20 37/24 44/18 45/5  49/13 53/16 54/3 56/3 56/24 57/4  58/24 63/19 66/3 76/24 89/14 110/21  111/25 128/20 129/6 129/12 132/15  132/22 149/14 166/15 166/18  convert [12] 11/11 12/6 19/10 25/24  30/4 38/11 44/10 44/16 45/3 64/3  76/22 150/12  converted [2] 61/7 160/12  cook [1] 147/17  coordinated [1] 54/13  coordinating [1] 116/19  coordinator [2] 116/13 116/22  coordinators [1] 116/17  copied [1] 36/17  copy [1] 18/11  correct [11] 29/10 38/19 80/20 121/20  121/21 122/9 122/15 122/16 123/14  134/20 169/9  correctly [5] 21/20 34/14 90/4 101/21  102/11  correlation [1] 107/2  cost [9] 73/12 73/13 104/16 120/9  125/17 136/24 136/25 146/19 163/16  costs [10] 131/5 131/19 135/8 137/4  142/11 150/5 157/15 162/16 163/7  163/10  could [29] 5/6 13/2 34/3 42/6 42/7 49/4  58/6 58/7 61/6 61/18 69/10 70/18 98/8  99/18 100/1 101/16 101/17 104/24  106/1 114/2 115/16 133/10 136/22  137/22 137/24 138/18 152/5 165/22  167/1  couldn't [5] 45/1 53/9 161/22 161/24  161/25  Council [1] 66/21  counsel [19] 3/17 3/18 8/2 11/5 14/15  20/10 29/10 29/19 29/25 36/15 36/17  65/8 89/9 89/23 96/12 103/11 151/7  169/12 169/14  counselor [1] 66/18  count [4] 34/15 101/16 102/12 149/13  counted [1] 13/15  counties [1] 85/23  counts [1] 101/14  county [23] 1/5 3/8 5/22 8/2 11/6 13/10  49/5 51/12 51/12 53/24 54/7 55/21  55/25 56/10 56/13 56/15 57/18 57/18  61/20 61/21 91/23 151/3 169/2  couple [8] 11/16 50/9 50/13 82/9 84/11  94/13 133/6 158/3  course [6] 3/20 14/5 28/22 38/2 128/8  138/18  court [12] 1/16 4/19 7/21 11/1 29/2  43/8 43/8 43/8 45/25 87/15 113/19  164/12  cover [5] 117/10 117/14 131/18 156/6  158/10  covered [1] 155/19  covers [1] 23/18</p>
---	---	---

C  
CRC [2] 22/6 43/24  
create [2] 68/4 83/17  
created [4] 21/19 37/16 68/15 85/7  
creative [1] 106/24  
credentialed [1] 105/22  
criteria [1] 60/14  
criticize [1] 37/14  
CSRC [9] 20/11 20/11 21/13 21/20  
24/24 25/17 42/23 43/14 86/19  
CSRC's [4] 19/12 19/16 25/6 25/18  
CSUSA [1] 72/17  
curious [1] 40/19  
curiously [1] 24/15  
current [4] 51/18 69/20 127/13 142/15  
currently [6] 56/9 60/22 61/8 69/24  
121/7 147/13  
curriculum [4] 57/2 122/15 123/2 123/6  
curtain [1] 39/19  
custodial [1] 66/19  
custodian [1] 66/18  
cut [2] 122/6 122/7  
cycle [1] 32/4

D  
DAC [1] 61/12  
daily [1] 106/11  
DATE [1] 1/11  
DATED [1] 169/16  
day [10] 6/25 37/22 43/25 63/23 82/19  
87/15 88/17 109/18 120/25 169/16  
days [1] 39/1  
DCA [1] 91/23  
de [9] 17/16 24/16 46/17 48/11 49/9  
49/19 52/14 74/14 76/23  
deal [2] 43/1 132/5  
December [2] 16/19 146/3  
December 26th [1] 16/19  
decide [1] 93/15  
decided [4] 32/20 57/24 64/2 102/3  
decision [13] 9/16 18/11 18/15 19/16  
25/18 39/21 50/20 82/19 82/20 83/11  
92/9 115/1 168/2  
decisions [7] 50/16 57/20 58/9 58/12  
63/25 90/23 93/16  
decrease [1] 138/9  
dedicated [1] 18/1  
deem [1] 94/1  
deep [1] 10/15  
defer [1] 75/21  
deferred [1] 14/6  
deficiencies [1] 16/14  
deficit [1] 148/24  
define [1] 147/15  
defined [1] 12/22  
definitely [2] 74/13 116/24  
definition [1] 95/1  
delegate [1] 167/14  
delineate [1] 70/2  
delineated [2] 68/19 75/3  
delineates [1] 71/1  
delineation [1] 68/5  
delineations [1] 70/18  
delivered [2] 5/8 146/25  
demonstrate [4] 14/8 19/24 30/6  
109/19  
demonstrated [2] 35/15 110/10  
denial [2] 16/24 90/21  
denied [1] 146/12  
deny [3] 87/2 91/20 157/20

department [10] 1/2 3/16 14/14 20/5  
35/18 43/19 65/2 97/2 139/1 167/14  
departments [1] 140/1  
depend [1] 152/3  
depending [1] 101/15  
describe [2] 53/18 64/11  
described [1] 96/22  
describing [1] 97/2  
deserved [2] 81/15 81/16  
designated [2] 9/1 169/7  
designation [2] 149/9 149/12  
designed [1] 121/7  
designee [1] 3/15  
despite [3] 17/25 75/1 152/19  
detail [2] 24/8 28/18  
determine [2] 85/20 106/6  
determined [2] 13/16 98/12  
develop [3] 6/18 58/21 106/15  
developed [3] 55/21 59/8 59/21  
development [14] 9/8 116/20 119/12  
121/15 121/25 122/12 122/23 124/18  
125/2 125/21 125/24 156/4 156/7  
156/9  
devoted [2] 84/16 84/19  
did [82] 5/3 13/16 13/23 15/4 15/11  
16/25 21/11 21/11 24/24 30/8 30/21  
32/12 32/25 33/16 34/1 34/7 34/7  
34/11 34/13 34/20 35/6 35/21 38/5  
39/20 40/1 43/13 43/21 44/17 45/4  
45/7 45/9 46/10 48/6 48/7 51/5 53/2  
53/4 54/9 54/11 58/5 58/13 59/2 60/24  
61/22 62/2 62/25 66/5 67/1 70/8 71/12  
73/2 74/18 77/21 83/6 86/6 88/9 89/22  
91/12 91/16 95/18 99/11 99/16 99/19  
107/7 108/5 108/23 110/24 115/13  
118/2 119/20 120/14 120/15 122/2  
123/8 130/7 138/25 142/23 149/7  
150/25 155/6 160/10 162/17  
didn't [18] 18/6 28/7 34/8 59/2 70/7  
74/5 88/15 94/18 107/8 109/17 109/17  
110/25 127/21 133/8 139/10 144/8  
149/13 150/11  
died [1] 42/12  
diesel [1] 142/12  
difference [4] 31/23 65/14 131/22  
131/23  
differences [1] 65/17  
different [22] 4/8 6/3 24/12 38/23 40/13  
65/4 68/8 76/11 76/12 80/24 84/24  
86/7 89/11 90/21 92/4 101/23 130/5  
130/11 139/12 139/25 151/12 158/2  
difficulty [1] 74/3  
dig [1] 53/6  
direct [4] 66/11 67/19 84/7 116/22  
directed [1] 92/20  
direction [3] 29/9 29/9 52/7  
directly [2] 74/11 139/10  
Director [2] 3/17 3/20  
disagree [2] 67/17 85/13  
discrepancy [2] 101/16 115/5  
discuss [3] 17/10 84/23 100/21  
discussed [5] 71/16 82/22 97/8 98/17  
159/1  
discussion [29] 44/6 46/21 69/14 69/15  
78/16 78/25 84/13 84/14 91/13 91/17  
98/20 99/6 99/7 113/3 114/25 118/22  
121/13 124/25 126/6 140/18 142/24  
143/7 144/3 145/6 148/2 152/20  
153/20 165/19 166/24  
discussions [4] 49/23 114/20 125/19

142/21  
Dismiss [2] 6/5 168/3  
dismissal [1] 23/21  
dismissed [1] 84/22  
dispensed [2] 13/20 83/3  
dispute [2] 16/4 33/19  
disputing [1] 41/14  
disqualifier [1] 25/1  
disregarded [1] 120/2  
dissatisfied [5] 15/14 53/21 54/25 55/1  
71/24  
distinct [1] 50/12  
district [127] 17/4 18/3 18/5 21/16  
21/24 22/1 23/13 24/23 28/4 29/1 29/5  
29/22 33/2 35/19 36/3 37/14 42/16  
43/2 48/16 49/4 49/8 49/25 50/3 50/6  
53/22 56/22 57/20 58/2 58/16 58/19  
59/14 61/12 61/16 61/19 61/22 62/21  
69/7 80/4 80/16 81/2 82/4 84/8 85/5  
86/13 89/6 89/16 93/10 93/11 95/18  
96/3 96/7 96/20 98/18 101/13 102/3  
103/4 103/16 104/15 106/21 107/19  
107/25 110/8 112/5 115/6 115/6  
115/19 116/6 116/19 117/3 120/4  
120/16 129/6 129/8 129/13 129/14  
129/17 129/23 130/4 130/12 130/20  
131/2 131/9 131/20 132/13 132/21  
133/17 133/21 133/24 134/8 134/23  
134/25 136/1 136/5 136/10 136/12  
137/7 138/13 138/14 138/21 138/25  
139/6 139/16 139/19 139/20 139/25  
142/25 146/5 146/17 147/12 147/22  
149/11 149/19 151/17 151/19 152/7  
152/9 154/23 155/4 155/24 156/4  
156/25 157/13 158/2 158/9 160/25  
161/1 164/18  
District's [25] 13/18 22/18 23/10 25/14  
60/3 81/4 81/24 82/10 83/4 87/24  
105/10 106/19 108/8 108/12 109/2  
109/23 111/10 119/18 120/24 127/7  
141/19 141/22 146/1 154/23 156/22  
districts [7] 4/15 48/18 48/19 57/22  
85/22 87/13 92/23  
diversion [1] 49/5  
do [94] 5/6 6/4 7/17 7/23 10/24 15/1  
15/4 19/19 19/20 21/6 21/9 24/4 31/20  
31/24 32/6 32/13 32/16 36/3 36/16  
39/14 39/14 43/19 44/21 49/2 49/4  
49/16 57/15 58/3 58/3 60/1 60/20  
61/23 63/8 63/10 64/2 65/7 65/9 67/2  
67/5 72/5 73/14 79/9 83/9 86/17 86/23  
86/24 87/9 87/25 88/5 88/15 88/16  
88/25 89/16 90/1 90/8 91/22 93/13  
94/1 94/12 96/6 96/8 97/23 101/10  
104/9 104/23 106/10 106/23 107/11  
109/4 109/12 109/18 109/25 110/11  
129/8 129/10 131/4 132/14 132/21  
134/6 134/10 135/21 136/6 136/15  
139/22 144/18 147/13 147/13 147/19  
148/7 154/14 160/23 167/16 167/16  
167/17  
document [10] 16/20 71/6 76/13 81/17  
82/6 97/2 103/14 103/23 155/10  
163/21  
documentation [5] 34/5 60/4 92/8  
93/25 159/8  
documents [3] 55/3 80/14 96/10  
DOE [4] 29/10 32/20 43/11 113/22  
DOE's [1] 35/15  
does [45] 8/7 29/22 37/5 39/7 39/7

D  
does... [40] 42/21 53/16 56/9 60/1  
63/15 64/21 65/22 70/6 70/20 70/22  
74/19 81/17 84/2 87/18 87/24 91/19  
92/17 92/25 93/6 93/9 96/4 103/8  
104/7 109/22 110/11 115/3 119/24  
129/6 131/11 139/23 142/9 146/7  
150/1 150/12 150/15 150/17 152/18  
159/21 163/16 164/20  
doesn't [17] 15/14 15/15 21/2 26/17  
27/6 44/2 51/20 62/17 62/17 65/19  
74/11 86/10 88/15 102/6 110/8 132/25  
156/5  
doing [8] 37/15 40/12 72/13 78/12  
89/21 93/23 128/10 133/1  
dollar [1] 47/18  
dollars [2] 129/7 151/22  
domain [1] 25/8  
domains [1] 21/14  
don't [42] 28/5 28/8 28/12 29/21 31/20  
37/10 41/1 49/17 58/15 64/19 69/13  
69/15 71/16 74/14 87/16 89/14 90/6  
91/1 93/15 93/19 102/8 106/13 112/3  
114/24 116/24 116/25 117/21 120/9  
133/3 133/6 134/15 140/1 143/18  
149/13 149/14 149/22 149/24 151/6  
151/18 151/23 163/24 168/6  
done [14] 15/7 32/3 42/13 61/21 63/5  
63/6 72/3 89/11 95/8 112/2 120/8  
122/24 123/15 127/21  
doubling [2] 127/18 127/19  
down [4] 36/10 65/10 110/2 122/13  
downgraded [1] 136/25  
downstairs [3] 5/9 113/21 114/1  
downtown [1] 64/5  
downward [1] 136/20  
Dr. [4] 35/8 64/24 72/16 125/4  
Dr. Garcia [1] 64/24  
Dr. Garcia's [1] 72/16  
Dr. Scott [2] 35/8 125/4  
draft [2] 53/2 68/2  
drafted [1] 167/17  
driver [1] 156/23  
drops [1] 162/13  
Durden [7] 19/6 24/8 103/9 128/4  
148/10 159/12 162/8  
during [16] 3/13 17/8 51/18 82/23  
84/12 93/4 120/1 123/4 123/15 135/9  
156/3 156/6 162/6 162/12 162/16  
163/8  
duties [1] 18/25  
dynamic [1] 108/25

E  
each [23] 6/13 8/13 9/13 10/3 26/3  
27/19 47/20 79/7 80/2 82/8 83/6 83/8  
83/18 83/25 88/18 88/19 89/3 106/1  
117/8 122/25 142/10 155/12 155/15  
earlier [9] 48/7 72/16 73/3 79/13 91/15  
91/16 110/17 120/20 121/2  
early [1] 40/15  
earning [1] 161/10  
ease [1] 7/21  
easy [4] 3/10 7/24 109/16 111/16  
education [12] 1/2 12/13 14/11 14/14  
20/6 27/2 27/3 37/7 65/25 72/9 72/13  
106/20  
educational [2] 75/25 122/10  
effect [3] 34/9 37/9 107/5  
effective [1] 128/19

effects [1] 102/25  
effort [1] 25/14  
eight [13] 9/22 9/23 10/4 16/24 79/7  
79/12 79/13 79/25 80/1 99/16 99/19  
117/10 141/25  
either [12] 40/16 50/23 67/25 85/21  
99/10 101/11 104/14 117/1 137/5  
147/20 149/14 161/25  
Elections [7] 13/10 27/21 32/14 33/23  
34/2 34/10 41/6  
electrical [1] 23/20  
elementary [12] 11/12 19/11 25/25  
40/9 44/16 45/3 58/9 66/2 66/7 76/23  
108/3 142/16  
eligible [2] 22/22 22/25  
ELL [5] 116/13 116/16 116/21 117/4  
117/22  
else [9] 35/22 39/3 49/3 50/5 52/10  
71/1 73/5 102/10 117/21  
email [8] 36/14 36/24 42/1 42/5 43/11  
43/15 43/17 43/20  
Emerson [1] 3/16  
employed [3] 14/9 19/25 52/9  
employee [8] 48/25 54/23 64/18 65/4  
65/5 113/22 169/12 169/13  
employees [13] 22/21 22/24 47/12  
47/13 47/17 49/7 49/7 51/8 65/3 67/8  
110/22 110/23 111/1  
employment [1] 51/22  
encompassed [1] 116/9  
encouraged [2] 18/7 18/8  
end [6] 25/4 37/22 43/25 52/4 63/23  
88/17  
enforce [2] 35/19 36/22  
engage [3] 27/24 68/21 68/23  
engagement [1] 68/12  
English [5] 9/7 114/16 114/21 118/10  
118/16  
enough [5] 71/9 79/4 91/19 115/7  
135/17  
enrichment [1] 121/5  
enroll [1] 133/22  
enrollment [11] 127/10 128/8 132/14  
134/5 136/20 137/14 137/18 138/3  
138/10 138/10 138/20  
enrollments [1] 138/5  
ensure [7] 5/1 10/16 106/24 112/2  
116/18 130/24 131/6  
enter [2] 129/14 138/15  
entering [2] 136/2 136/3  
entertain [1] 10/9  
entertained [1] 58/23  
entertaining [3] 84/1 99/9 135/7  
entire [3] 24/14 79/23 80/1  
entirely [1] 116/14  
entirety [1] 80/24  
entity [3] 33/25 85/10 92/4  
equipment [21] 146/19 146/20 147/1  
147/2 147/5 147/13 147/23 148/3  
148/17 149/20 149/25 150/3 151/8  
151/9 151/12 151/14 152/1 152/4  
152/13 152/19 152/24  
erred [1] 11/22  
erroneous [4] 21/2 28/24 28/25 29/2  
erroneously [2] 32/15 42/17  
error [1] 35/17  
errors [1] 42/19  
escorted [1] 113/21  
ESE [6] 101/14 102/22 103/17 106/17  
108/14 151/10

ESOL [1] 116/17  
especially [1] 27/23  
essence [3] 54/5 87/15 122/20  
essentially [3] 6/10 42/1 147/2  
establish [1] 31/11  
established [3] 11/21 18/23 40/15  
estimated [1] 142/12  
ethics [2] 67/10 67/11  
evaluate [3] 6/11 6/13 18/18  
evaluated [1] 95/16  
evaluating [2] 93/12 124/9  
evaluation [25] 9/6 21/16 78/19 80/10  
88/24 96/3 97/10 97/18 97/19 98/6  
99/4 100/17 112/16 112/24 114/18  
118/12 126/1 127/2 140/14 141/9  
144/25 145/23 153/14 154/11 165/14  
even [23] 28/13 31/17 37/10 41/5  
41/22 56/25 72/19 88/10 94/18 96/9  
104/17 111/25 117/1 121/2 131/2  
131/8 148/21 149/5 150/1 151/3  
152/11 152/15 158/8  
event [3] 28/13 116/4 132/14  
ever [1] 116/22  
every [7] 25/8 93/20 107/23 109/14  
109/15 133/16 157/16  
everybody [7] 38/19 57/23 60/24 77/21  
79/16 87/8 114/4  
everyone [5] 5/1 40/20 41/2 77/25  
115/3  
everything [9] 39/2 55/6 57/23 61/22  
70/7 72/11 74/4 123/3 125/15  
evidence [45] 11/21 18/16 19/14 19/19  
21/5 21/6 21/12 23/9 24/13 25/8 25/15  
80/6 80/7 81/13 83/13 84/3 85/21  
85/25 86/25 88/1 88/6 88/14 91/10  
92/6 92/14 97/16 98/5 99/3 102/6  
110/1 110/13 112/13 112/21 116/25  
118/9 118/15 120/6 125/23 128/16  
140/11 144/22 153/11 155/16 165/10  
165/11  
evidentiary [1] 22/3  
ex [1] 69/24  
ex-Mayor [1] 69/24  
exactly [4] 15/6 39/18 51/25 125/15  
examination [1] 87/22  
example [3] 64/12 121/11 156/3  
examples [2] 50/9 156/12  
exceeded [2] 21/14 63/14  
excellent [2] 21/19 87/20  
exception [2] 110/23 151/14  
exceptional [8] 9/6 100/16 100/24  
100/25 101/9 112/8 112/14 112/22  
excess [1] 150/9  
exchange [1] 43/15  
excuse [3] 26/24 33/19 76/8  
Executive [2] 3/17 3/21  
exercised [2] 64/3 69/4  
exist [3] 60/1 102/6 134/20  
existing [5] 12/21 89/14 89/15 89/15  
135/15  
expand [1] 121/8  
expectation [5] 16/5 89/20 93/3 94/22  
125/16  
expectations [5] 17/10 38/16 38/18  
87/6 89/10  
expenditure [1] 155/1  
expense [1] 147/4  
expenses [1] 157/4  
experienced [1] 65/7  
expertise [2] 65/1 165/7

<p><b>E</b></p> <p>EXPIRES [1] 169/21  explain [3] 8/13 10/20 104/2  explained [2] 81/8 103/24  explanation [3] 127/20 155/15 157/17  explored [1] 137/8  express [1] 51/22  expressed [1] 27/19  Extensis [1] 64/16  extensive [1] 10/10  extent [1] 138/9  external [1] 159/17  eyes [1] 158/22</p>	<p>151/21 151/21  federally [1] 149/20  federally-funded [1] 149/20  fee [1] 23/5  feedback [4] 94/12 94/15 111/10  167/19  feel [4] 99/13 100/21 113/25 127/21  feeling [1] 63/15  feet [1] 81/5  felt [2] 56/22 61/18  few [8] 20/19 20/21 22/16 90/2 127/8  154/22 155/21 156/17  fidelity [3] 105/24 106/8 106/25  fiduciary [1] 135/16  fifth [2] 91/23 128/12  Fifty [2] 29/11 29/12  Fifty percent [1] 29/11  figure [2] 5/6 138/16  file [1] 15/17  filed [3] 6/5 43/14 76/7  filing [3] 33/17 75/23 76/15  filings [1] 3/11  fill [2] 111/1 160/16  final [4] 154/9 166/13 167/13 168/2  finalized [1] 72/2  finally [3] 24/6 62/20 63/23  finance [2] 72/13 139/15  financial [7] 17/11 25/1 51/19 73/10  73/19 74/6 74/9  financially [1] 169/15  find [24] 28/3 44/15 45/2 76/21 78/18  78/22 86/6 87/16 87/23 97/15 99/2  112/12 112/20 118/8 125/22 140/10  144/21 153/10 161/7 161/12 161/24  162/23 164/7 165/9  finding [4] 40/19 111/14 111/19 117/1  findings [1] 88/9  fine [2] 116/1 164/10  fire [1] 50/4  firing [1] 47/16  firm [2] 21/19 101/23  first [23] 3/9 5/25 6/4 9/5 11/19 12/13  19/10 25/23 26/7 31/10 32/10 36/11  38/4 38/7 46/11 70/24 81/5 88/23  119/22 123/5 127/5 128/8 128/11  fiscal [1] 157/5  fit [1] 54/3  five [11] 17/22 49/6 75/9 77/15 128/8  128/12 134/3 134/9 134/19 134/25  157/9  five-year [2] 134/3 134/9  FL [1] 1/5  flavor [1] 63/18  flipped [1] 126/20  floor [7] 9/15 29/16 44/21 49/22 100/19  114/20 142/20  FLORIDA [18] 1/2 1/14 1/17 5/15 8/3  11/6 15/13 16/2 20/5 21/5 26/2 69/2  95/16 96/2 96/4 96/17 118/11 169/2  focus [1] 155/25  focused [1] 44/9  folks [2] 61/11 86/2  follow [19] 9/17 15/5 15/9 33/1 37/13  37/21 37/21 43/7 52/7 64/19 104/9  104/20 107/20 107/24 108/23 109/19  110/10 111/15 111/24  followed [4] 15/8 26/18 42/17 86/15  following [7] 37/15 37/16 37/20 41/2  41/3 76/2 108/8  follows [1] 18/3</p>	<p>followup [7] 33/21 40/4 56/18 58/15  69/6 102/18 160/7  food [22] 9/9 113/25 139/15 145/21  146/7 146/16 146/19 146/20 146/23  146/24 147/19 148/1 148/15 148/22  149/3 150/8 152/15 153/7 153/12  155/20 158/4 158/14  footnote [1] 161/12  foregoing [2] 169/5 169/8  forgive [2] 31/8 163/10  form [8] 16/19 16/20 16/22 80/10 92/22  93/8 146/2 155/2  Fort [1] 167/24  forth [12] 26/24 72/8 97/19 112/16  112/23 118/12 125/25 140/13 142/6  144/25 153/14 165/13  forward [8] 12/6 51/6 54/1 82/11 88/20  102/3 103/5 130/25  forwarded [1] 167/21  found [6] 21/13 55/12 88/13 163/22  164/19 164/23  foundation [1] 22/4  founding [1] 67/6  four [6] 49/6 61/10 94/13 128/10  128/11 164/16  frame [1] 88/7  Frankly [1] 80/2  free [3] 99/13 100/21 113/25  freezers [1] 148/5  front [4] 37/11 43/23 81/22 91/2  FRS [5] 22/22 22/25 74/8 86/17 160/13  fuel [2] 142/11 142/12  fulfill [1] 122/14  full [5] 16/16 147/14 147/16 147/21  148/4  fully [1] 122/13  fund [1] 157/8  fundamental [1] 57/13  funded [2] 131/8 149/20  funding [16] 24/5 104/11 104/17 109/6  115/7 115/9 129/20 130/25 138/7  148/1 151/8 151/10 151/21 159/17  159/22 160/4  fundraising [1] 63/9  funds [4] 59/15 125/5 147/23 150/8  further [15] 12/19 29/24 44/6 51/5  98/20 113/3 118/22 125/19 140/18  145/6 151/7 153/20 165/19 166/23  169/11  future [1] 138/9</p>
<p><b>F</b></p> <p>face [1] 156/8  faced [1] 58/17  facilities [21] 9/8 24/9 57/9 84/13  102/13 102/16 127/1 127/9 130/17  130/25 131/3 131/10 133/22 133/25  133/25 138/22 139/15 140/9 140/12  155/21 157/15  facility [15] 23/16 63/11 127/17 127/17  129/3 129/14 129/19 130/2 134/10  136/21 137/17 137/19 137/24 147/25  152/8  fact [32] 6/16 14/12 20/25 25/13 33/9  34/15 35/18 42/20 42/21 43/15 48/21  49/2 49/11 49/16 51/25 66/20 67/13  67/18 75/1 78/14 83/22 85/15 86/7  87/25 92/14 95/10 98/11 104/13  119/25 122/19 157/13 159/3  fact-based [3] 6/16 78/14 95/10  facto [9] 17/16 24/16 46/18 48/11 49/9  49/19 52/14 74/14 76/24  factor [1] 106/18  factors [2] 89/15 131/5  facts [4] 18/10 47/10 50/13 130/15  factual [2] 21/15 87/12  factually [3] 19/18 80/18 80/20  fail [1] 156/1  failed [6] 13/17 14/3 14/24 16/4 18/17  41/23  fails [1] 24/23  failure [2] 12/24 23/25  fair [3] 6/15 38/16 137/16  fall [2] 124/8 149/12  false [3] 22/9 22/19 85/13  families [4] 13/19 66/8 123/24 133/3  far [8] 36/19 42/9 57/18 107/19 139/5  151/8 155/20 164/13  fast [4] 82/11 107/11 107/15 114/3  fault [1] 150/10  favor [5] 13/6 13/16 31/1 33/20 41/23  favorable [1] 159/21  FCI [20] 20/25 21/11 21/11 21/21 22/6  42/22 86/2 86/18 87/10 93/3 93/13  93/22 94/14 98/16 101/13 115/8  119/19 143/1 143/8 143/22  FCI's [1] 111/11  FCS [1] 76/8  FDOE [1] 28/15  FDOE's [1] 20/10  February [7] 11/10 12/12 12/12 30/24  38/9 41/16 163/25  February 20th [2] 41/16 163/25  February 23rd [1] 12/12  February 26th [1] 11/10  February 29th [1] 12/12  federal [6] 109/6 147/23 151/8 151/10</p>	<p><b>G</b></p> <p>Gaines [1] 1/13  Gainesville [2] 57/19 64/5  gaps [3] 111/1 111/13 160/17  garbage [1] 163/10  GARCIA [6] 2/5 3/24 29/19 45/15  64/24 77/5  Garcia's [1] 72/16  garner [1] 123/11  GAY [5] 2/2 3/14 28/8 104/5 119/15  general [6] 29/10 65/8 75/5 89/5  106/20 155/23  generally [1] 10/6  generating [1] 153/2  geographic [1] 58/18  get [41] 3/3 4/17 4/18 5/4 7/3 8/12 9/11  10/8 15/17 24/7 25/15 34/8 39/7 39/13  42/9 42/10 47/20 64/16 64/20 70/5  77/20 78/6 79/13 85/12 85/12 86/10</p>	

G

get... [15] 87/14 88/2 89/12 89/14  
91/24 91/24 95/6 99/18 114/3 115/3  
116/2 132/8 139/8 139/10 161/14

gets [2] 51/14 85/5

getting [6] 36/9 53/21 56/22 101/18  
126/23 133/7

gift [1] 163/5

gifts [1] 163/16

give [11] 10/6 26/3 45/24 58/7 68/11  
79/7 93/20 98/1 100/13 109/14 115/16

given [7] 31/19 70/8 85/11 86/11  
120/25 121/23 167/25

giving [1] 107/11

gmail.com [1] 1/23

go [67] 3/2 3/22 5/3 9/2 9/24 10/5  
15/11 24/6 26/6 29/23 30/2 31/5 31/24  
40/5 42/18 42/21 42/22 43/4 46/11  
49/21 53/6 53/7 53/11 54/19 62/13  
63/4 64/9 67/23 68/22 77/2 78/8 79/8  
79/8 79/9 80/2 80/24 81/19 82/2 82/15  
83/6 83/8 83/17 83/24 85/2 87/12  
87/23 94/13 99/23 100/19 111/21  
114/19 121/18 130/17 133/9 133/10  
133/12 134/12 142/20 144/19 151/25  
154/19 158/4 158/19 164/16 167/2  
167/22 168/8

goes [10] 36/3 37/18 66/4 82/8 130/12  
147/9 151/22 152/11 157/9 163/13

going [105] 6/1 6/7 6/7 8/11 8/12 10/9  
11/16 12/5 16/7 21/8 22/16 24/8 26/21  
36/10 40/17 40/22 41/18 46/1 46/4  
47/13 48/1 51/11 51/13 54/17 55/7  
56/12 58/24 62/5 67/7 69/1 69/3 69/3  
69/20 73/11 75/20 78/7 80/1 83/7  
83/18 87/6 87/7 87/9 87/13 87/14  
87/16 87/23 88/16 88/17 93/17 94/1  
95/23 97/25 101/12 102/3 102/3 103/5  
103/5 104/25 106/3 108/15 109/19  
110/22 111/6 112/1 112/5 112/18  
113/17 113/21 114/2 114/19 115/14  
117/7 117/17 121/6 122/23 123/1  
123/3 123/16 124/7 124/22 127/5  
127/20 128/23 131/8 131/24 132/17  
133/1 133/8 135/25 137/13 145/25  
146/9 148/10 152/16 152/17 152/18  
152/22 157/12 158/1 161/11 163/10  
163/17 163/17 167/15 167/17

gone [1] 155/11

good [23] 3/2 4/13 10/8 18/22 19/4  
23/9 26/11 54/6 69/23 79/22 82/24  
87/2 94/7 99/25 105/3 109/21 110/2  
110/13 117/2 124/16 128/3 157/20  
168/8

got [12] 11/18 12/1 43/20 46/15 54/4  
61/22 63/18 69/13 82/2 95/13 98/23  
126/20

governance [1] 66/12

governed [3] 24/19 24/21 66/8

governing [11] 48/13 48/14 58/1 62/10  
63/9 68/4 74/24 75/9 75/11 75/15  
76/11

government [2] 52/3 55/13

governs [2] 14/16 15/25

Granger [3] 21/18 105/1 105/7

grant [2] 166/15 166/18

grants [1] 147/24

grassroots [4] 53/17 55/3 55/9 66/5

great [6] 19/4 78/13 80/21 81/12 89/22  
107/23

greater [1] 160/10

grievances [1] 33/13

ground [1] 115/15

grounds [3] 117/18 146/11 155/13

group [5] 21/21 54/10 55/1 143/14  
156/24

grow [1] 132/15

growing [3] 55/25 56/14 57/16

growth [2] 55/22 137/14

guess [21] 30/20 35/6 40/8 40/25  
53/15 65/17 67/24 89/8 92/20 107/18  
111/8 112/3 122/14 123/11 123/25  
131/15 141/16 152/3 152/14 158/24  
162/19

guidance [1] 41/5

guide [1] 38/6

guides [1] 81/6

guilty [1] 41/8

guys [2] 109/12 161/8

---

H

had [47] 4/10 4/11 9/20 16/16 20/16  
23/15 26/10 32/19 36/6 37/8 41/18  
43/16 50/4 54/14 57/9 59/12 59/19  
59/20 59/20 60/2 60/13 60/23 61/4  
63/10 69/8 71/9 73/10 86/11 91/9  
94/12 94/13 98/18 101/24 107/14  
115/9 116/6 117/16 118/5 122/6 130/4  
132/23 134/23 141/24 144/3 144/13  
161/12 167/13

half [9] 12/23 27/6 27/7 27/14 59/7  
83/1 94/19 143/5 144/2

handle [2] 110/9 110/9

handled [2] 72/14 101/23

happen [4] 4/25 58/21 123/8 135/14

happened [7] 35/17 39/15 39/18  
101/24 129/16 132/22 140/1

happens [8] 42/25 73/18 108/20 111/7  
136/18 156/10 163/13 168/12

happy [2] 87/22 110/6

hard [3] 77/23 93/19 143/11

Harmon [8] 8/1 11/4 33/5 79/20 103/11  
107/16 139/18 151/15

Harmon's [1] 85/3

has [60] 3/19 5/23 6/5 9/16 15/16  
18/25 22/6 22/6 22/14 25/1 25/1 25/2  
25/19 28/15 29/5 32/15 33/11 39/1  
48/15 48/20 54/15 57/14 61/16 61/23  
61/23 62/10 63/4 63/14 65/1 66/2  
66/16 68/8 72/3 72/3 72/4 78/14 80/8  
83/10 83/23 85/7 89/14 102/1 102/6  
103/4 113/22 129/16 129/17 129/25  
131/2 133/19 134/8 137/4 137/7  
141/25 152/12 156/23 157/17 159/19  
160/18 167/17

hasn't [1] 57/11

have [229]

haven't [1] 135/11

having [8] 32/24 64/18 74/3 77/23 97/7  
98/22 107/1 148/3

he [6] 7/9 7/15 54/15 54/16 133/8  
144/9

head [1] 66/18

health [1] 156/24

hear [35] 4/21 7/13 7/14 10/25 30/18  
45/1 45/7 53/9 53/15 70/7 74/5 78/1  
78/2 79/19 79/21 89/9 89/18 90/4  
90/10 91/12 91/16 95/25 105/4 112/19  
122/4 123/8 124/4 127/20 143/11  
143/16 144/8 155/14 161/22 161/25

166/5

heard [22] 4/23 5/1 6/6 31/6 59/9 74/6  
77/22 77/25 80/17 85/3 86/9 86/20  
89/6 89/7 107/19 123/22 133/2 134/19  
152/15 159/9 160/9 161/23

hearing [5] 8/19 74/4 77/23 98/23  
159/4

heart [2] 37/18 130/13

heartburn [1] 111/20

held [2] 32/4 53/23

help [3] 47/18 47/21 139/13

helpful [2] 5/11 7/22

helping [1] 114/13

her [6] 4/11 13/13 52/23 63/24 103/10  
122/2

here [47] 3/9 3/16 3/25 4/2 4/4 4/6 4/20  
7/8 11/5 11/6 11/10 11/18 19/9 30/3  
39/18 41/13 42/15 47/25 49/12 68/6  
68/7 71/11 74/25 85/22 86/23 86/24  
90/7 103/12 109/3 110/6 113/17  
113/23 114/1 122/4 125/11 128/14  
135/24 143/18 144/19 150/20 151/18  
151/24 155/12 157/4 158/6 158/13  
161/12

HH252438 [1] 169/21

high [3] 65/25 153/1 157/1

higher [1] 160/12

highlight [3] 73/3 127/8 143/20

highly [1] 55/21

him [2] 7/13 79/21

himself [2] 7/10 7/16

Hines [1] 3/21

hire [1] 50/16

hired [1] 54/23

hiring [1] 47/16

hit [1] 11/16

homework [1] 62/25

hope [3] 47/20 92/15 94/15

hoping [2] 5/5 55/15

hour [3] 17/3 84/15 84/19

hour-and-25-minute [1] 84/15

hours [1] 119/21

house [4] 123/12 128/18 147/6 157/11

housekeeping [1] 4/17

housing [1] 135/4

how [59] 6/1 6/24 8/11 10/17 10/24  
11/25 22/21 33/13 36/19 38/5 39/6  
39/7 39/14 41/9 41/12 50/1 51/12  
51/14 53/16 53/18 54/9 54/20 56/6  
60/6 60/9 60/14 61/2 63/5 64/21 84/18  
86/17 86/17 89/8 90/13 93/13 93/25  
102/4 104/3 104/23 104/23 106/6  
108/6 109/7 110/8 125/13 125/13  
125/15 125/16 127/20 132/16 134/21  
137/1 139/17 144/12 152/15 155/15  
157/5 161/10 163/16

However [4] 6/13 146/22 147/6 155/23

HR [9] 49/1 52/5 64/16 65/2 67/19  
72/11 72/12 72/20 159/25

HVAC [1] 23/19

hyperfocus [1] 51/3

hypotheticals [1] 121/3

---

I

I'll [36] 4/23 7/17 7/23 8/10 9/2 10/2  
22/4 26/3 29/16 38/8 49/11 49/21  
58/14 73/1 75/17 77/2 78/15 79/23  
92/21 97/13 97/23 100/19 118/19  
124/12 126/4 126/21 140/17 142/20  
142/22 145/4 153/8 153/18 154/17

<p>I I'll... [3] 157/21 162/23 168/11 I'm [92] 3/14 5/25 7/6 8/11 10/22 11/6 11/16 16/7 21/8 22/16 26/8 31/21 35/1 36/5 36/19 38/1 38/9 40/8 40/18 40/19 40/25 41/9 41/11 41/12 42/22 51/11 54/7 54/17 55/8 55/15 55/17 56/19 56/24 59/25 61/18 67/24 68/9 69/19 73/25 74/2 74/2 74/3 75/20 78/7 80/1 86/22 91/14 94/10 95/22 96/1 96/9 98/22 98/22 99/25 100/13 102/4 104/25 111/14 111/19 112/18 114/3 114/19 122/4 124/22 127/6 129/5 134/21 137/8 137/25 140/3 143/6 143/17 145/25 146/9 148/15 150/20 151/12 151/18 151/24 152/10 152/14 159/4 159/7 160/8 161/7 163/1 164/6 164/9 164/9 166/6 166/6 166/8 I've [17] 29/7 46/14 71/11 77/22 80/17 103/10 103/24 113/20 123/21 123/22 123/23 127/23 152/15 154/22 156/19 157/10 162/21 IDA [2] 109/6 158/3 idea [14] 20/22 22/8 29/6 39/10 49/14 54/1 57/8 57/13 62/16 86/9 88/3 103/3 109/15 161/14 ideal [1] 111/4 identified [20] 9/22 16/17 26/13 26/20 31/15 79/13 81/7 81/22 84/8 103/13 103/16 103/22 104/10 107/19 117/22 120/15 130/12 141/17 155/5 155/10 identifies [1] 76/14 identify [7] 7/9 7/16 9/3 24/5 65/19 82/23 108/5 identifying [1] 12/5 IEP [9] 24/2 24/2 104/4 104/7 104/18 105/14 105/15 106/1 109/5 IEPC [2] 146/2 155/2 IEPC-INP [2] 146/2 155/2 IEPs [7] 103/20 105/23 106/1 106/6 106/17 107/20 108/18 ignore [1] 27/22 ignored [2] 15/22 21/14 ignores [1] 47/24 Ii [2] 125/2 125/5 illegal [2] 23/7 48/19 immaterial [2] 81/15 82/24 immediate [1] 128/9 immediately [4] 9/24 28/23 124/3 124/7 impact [3] 123/13 150/22 163/17 impartial [1] 6/15 impetus [3] 56/23 57/3 58/5 implement [4] 39/17 105/23 106/7 106/17 implementation [2] 15/21 106/24 implemented [1] 107/21 implementing [1] 123/4 important [8] 11/25 18/11 79/1 82/18 82/19 94/2 94/20 144/5 impossible [1] 57/22 improper [2] 21/15 69/5 improvement [1] 134/2 in-house [1] 123/12 in-kind [2] 163/5 163/15 inaccurate [2] 19/18 22/13 inaudible [3] 23/24 67/17 135/13 INC [2] 1/7 12/14 inception [1] 66/4 include [2] 44/11 160/6 included [10] 18/12 34/5 135/17 138/3</p>	<p>138/4 148/23 150/2 157/21 159/13 159/18 includes [3] 74/8 103/18 103/19 including [6] 17/21 18/19 21/23 21/25 63/1 105/21 Income [1] 158/25 inconsistency [1] 31/22 inconsistent [2] 30/12 35/13 incorrect [3] 23/11 80/19 85/14 increase [2] 127/11 134/5 increased [1] 128/7 indeed [1] 55/25 independence [5] 50/10 51/2 51/9 51/21 68/22 independent [6] 13/11 24/22 41/6 48/14 50/1 75/9 independently [1] 51/15 indicate [3] 51/6 83/15 124/19 indicated [2] 33/24 131/17 indicating [2] 41/22 111/15 indication [1] 116/21 indifferent [2] 81/14 82/24 individual [6] 50/17 50/24 50/25 105/13 155/25 156/14 individually [1] 157/16 Inevitably [1] 15/23 inexplicably [1] 19/15 inextricable [1] 16/9 inextricably [3] 17/15 48/1 76/9 information [22] 12/7 16/18 18/10 23/2 29/25 34/1 40/13 54/12 68/8 76/2 78/18 79/4 82/3 82/5 92/1 92/7 92/15 94/16 95/11 95/14 106/12 142/17 informational [1] 12/18 initial [3] 60/4 62/12 80/9 initially [3] 60/10 105/20 167/13 initiative [3] 59/15 59/22 66/3 INP [2] 146/2 155/2 input [21] 17/3 18/2 47/6 60/21 80/17 85/5 85/12 85/12 86/11 87/8 92/23 92/24 93/11 96/20 103/14 103/23 117/23 119/20 120/21 120/24 141/19 inquired [2] 43/11 43/19 inquiry [1] 43/16 instance [6] 21/1 93/2 108/2 121/4 127/9 139/9 instances [1] 156/17 instead [2] 117/6 123/15 institute [26] 5/16 5/16 16/15 16/23 17/2 17/8 17/20 18/17 47/4 80/11 81/5 81/6 82/1 82/7 82/8 84/12 95/16 96/3 96/5 96/19 97/1 103/15 103/25 120/14 121/1 141/20 institute's [3] 5/20 17/23 97/3 institution [1] 75/25 instruction [1] 116/23 instructional [7] 66/18 66/20 116/11 116/11 120/1 123/9 156/10 instructions [1] 8/11 instructors [1] 161/4 instrument [17] 78/20 97/20 98/16 100/18 112/16 112/24 114/18 118/13 126/1 127/2 140/14 141/10 144/25 145/23 153/14 154/12 165/14 insufficient [3] 62/22 62/23 63/12 insurance [1] 156/24 intended [2] 20/17 116/22 intends [1] 106/15 intentional [1] 16/3 intentionally [2] 27/11 130/23</p>	<p>interact [1] 61/15 interest [2] 48/24 159/21 interested [1] 169/15 interesting [2] 28/3 142/23 interestingly [1] 26/16 interests [1] 138/19 interlocal [2] 58/21 59/3 interrupt [1] 4/25 intertwined [3] 17/15 48/2 76/10 intertwining [2] 16/9 16/9 intervene [1] 112/6 interview [17] 17/1 17/19 51/18 68/8 78/21 81/20 81/23 84/12 84/19 93/5 93/18 93/24 101/12 123/23 159/10 160/9 163/8 invalid [3] 35/14 35/19 36/22 invalidate [1] 36/23 inventoried [2] 128/20 147/8 involve [1] 138/25 involved [3] 52/2 52/3 55/14 involvement [4] 46/23 55/11 71/3 84/16 irrelevant [1] 54/18 is [471] isn't [5] 24/18 25/4 72/16 72/17 76/5 isolated [5] 53/24 55/18 55/23 56/14 57/17 issue [82] 6/13 6/24 8/25 9/14 9/18 9/24 9/25 10/1 11/17 11/24 14/19 16/7 25/23 26/5 26/12 26/13 26/20 27/9 28/10 28/14 28/17 29/4 29/8 36/21 37/19 37/24 42/10 42/25 44/12 45/23 46/6 46/7 46/9 46/16 47/25 49/23 57/2 57/2 60/2 66/4 68/18 73/18 78/23 79/9 79/10 80/5 80/6 82/12 88/23 98/17 100/13 100/15 100/24 101/2 101/3 101/4 101/6 101/9 103/9 104/21 108/16 108/20 112/8 114/15 116/15 117/4 119/11 119/14 119/16 121/14 125/20 126/25 135/11 140/9 141/8 145/20 148/11 153/7 154/10 154/13 165/5 165/20 issued [1] 11/18 issues [43] 5/4 6/20 7/3 7/4 8/5 8/7 8/8 9/3 9/21 9/24 10/3 11/16 16/15 16/16 43/1 71/8 78/6 78/9 79/12 80/3 81/1 83/6 83/19 83/20 83/21 83/25 85/16 86/19 94/18 94/19 94/20 95/4 95/8 99/18 101/8 103/13 103/22 108/20 115/25 120/15 139/18 141/17 157/10 it [370] it's [79] 3/10 6/7 8/15 9/22 11/25 22/20 22/22 23/13 24/11 24/18 28/11 32/3 35/4 36/2 37/2 37/13 38/16 39/12 42/24 47/23 53/6 56/13 56/14 57/12 57/18 60/7 63/5 64/24 65/9 65/10 66/21 68/17 72/19 73/7 75/2 76/6 81/2 82/2 84/17 85/10 86/16 87/11 87/20 90/25 91/22 92/5 93/22 101/2 101/3 102/1 102/2 106/18 109/13 109/16 110/17 110/19 119/17 122/23 123/1 123/20 127/5 128/9 128/13 129/5 131/22 135/2 136/11 137/19 142/23 143/11 149/10 152/6 152/9 152/17 152/18 158/25 159/1 162/3 163/23 item [8] 24/11 24/12 24/14 71/14 117/8 125/12 132/4 154/21 items [11] 83/8 87/12 115/11 130/16 132/5 135/17 142/5 155/12 156/1 156/15 158/12 its [23] 6/21 10/20 11/14 17/2 17/21</p>
--	--	---

I  
its... [18] 19/17 21/16 22/13 34/2 38/17  
48/8 48/19 49/5 66/4 71/3 95/17 96/6  
96/25 134/9 134/10 149/17 156/8  
159/6  
itself [16] 13/7 26/24 26/25 28/14 37/5  
50/14 51/5 57/18 65/18 70/16 87/20  
87/21 148/19 156/18 160/20 161/2

J  
Jamie [4] 3/17 90/1 96/8 168/5  
Jim [2] 20/10 46/21  
job [3] 57/22 78/13 95/9  
Joel [1] 54/15  
Jordan [2] 69/21 69/24  
judgment [3] 21/7 21/10 25/16  
July [1] 128/19  
jump [6] 25/23 26/11 46/9 89/3 114/15  
157/24  
jumped [1] 36/5  
JUNE [1] 169/21  
just [137] 5/9 7/23 8/3 9/21 11/9 15/22  
17/19 18/16 20/19 20/21 24/12 24/18  
29/24 31/25 33/3 35/9 35/17 37/25  
38/19 39/15 40/9 40/12 40/18 41/9  
46/10 46/12 47/23 50/8 51/13 51/17  
52/17 53/14 55/5 56/5 56/5 57/10  
58/14 60/6 60/10 61/18 62/17 65/19  
66/21 67/2 67/10 67/16 68/9 69/17  
71/14 71/21 72/5 72/19 73/9 74/5 76/5  
78/5 79/22 81/20 84/17 85/21 89/5  
89/18 94/3 94/6 94/10 94/17 94/23  
95/19 96/5 98/1 100/13 100/23 101/11  
101/19 102/5 102/16 102/22 103/12  
107/10 107/11 107/14 108/8 111/15  
111/16 111/22 111/23 112/19 114/15  
114/25 115/14 115/16 117/5 120/16  
121/11 121/17 122/6 123/12 123/16  
124/15 125/10 127/8 128/6 128/18  
129/4 131/5 131/13 131/24 132/3  
133/14 133/20 134/14 136/17 137/12  
138/21 141/24 142/4 142/17 142/22  
143/20 146/15 147/19 148/13 148/14  
150/19 150/23 151/16 155/23 156/3  
156/12 162/14 162/19 163/1 163/3  
163/3 163/19 163/24 167/16  
justification [1] 78/15

K  
K4 [1] 102/20  
Karen [13] 3/20 3/22 45/12 77/4 100/1  
113/5 118/24 126/8 140/20 145/8  
153/22 165/22 167/1  
keep [6] 5/10 45/25 46/3 78/7 135/17  
147/19  
key [1] 19/9  
KIA [22] 2/3 4/5 30/16 34/25 45/19  
52/22 66/25 77/11 100/9 111/21 113/2  
113/9 119/7 126/16 132/11 141/3  
145/16 149/7 153/19 154/1 166/9  
167/9  
kids [1] 137/1  
kind [34] 5/25 8/3 11/25 26/11 38/19  
39/12 47/2 50/13 54/3 55/6 61/20  
63/22 68/3 68/8 69/9 76/6 80/3 90/14  
97/7 99/18 99/19 111/5 122/6 122/12  
127/8 129/22 130/13 130/14 135/3  
135/7 135/8 147/13 163/5 163/15  
kinds [2] 43/1 49/8  
kitchen [6] 147/14 147/16 147/21 148/4

148/5 152/24  
know [87] 3/10 25/9 29/23 31/20 31/20  
32/6 38/5 46/14 58/17 58/18 62/12  
63/13 63/17 65/11 67/4 67/11 69/13  
69/15 71/16 74/14 75/4 75/5 79/25  
82/2 83/7 86/2 90/6 91/18 91/22 93/14  
93/19 94/4 94/5 94/7 94/11 94/12 95/5  
101/19 102/8 107/8 107/17 108/24  
109/12 109/20 109/25 110/8 110/10  
110/22 111/5 111/6 111/7 115/15  
122/22 125/15 128/14 130/21 130/24  
131/6 131/9 132/13 133/6 133/8 134/1  
135/14 137/2 137/13 137/17 137/19  
138/10 138/15 138/16 139/11 139/22  
140/1 149/10 149/13 149/14 149/16  
151/6 154/22 155/20 157/11 157/14  
159/15 159/24 162/20 163/24  
knowing [2] 16/3 134/16  
knowingly [1] 27/11  
known [1] 64/14

L  
lack [1] 146/20  
lacked [1] 23/22  
lag [1] 148/25  
laid [2] 81/5 117/18  
Lake [1] 49/5  
land [1] 134/16  
landlocked [1] 135/3  
language [11] 9/7 51/22 71/4 71/5 73/4  
75/21 114/16 114/21 116/8 118/10  
118/16  
large [3] 1/17 58/18 85/1  
larger [1] 58/2  
last [5] 36/7 106/2 106/3 136/17 154/21  
lasted [1] 17/3  
late [1] 81/3  
later [6] 20/19 24/8 24/8 31/15 38/21  
96/23  
law [40] 17/18 19/21 20/8 21/2 21/5  
22/13 25/10 25/12 25/12 28/5 30/10  
42/24 43/5 43/6 43/7 44/3 48/10 64/19  
69/2 83/22 85/14 86/3 91/22 100/17  
104/9 107/20 107/24 108/8 108/24  
109/4 109/19 109/21 110/10 110/11  
111/12 111/16 111/24 127/2 139/24  
154/11  
laws [1] 67/10  
lawyer [1] 40/25  
lay [2] 12/1 134/16  
layout [1] 135/2  
lays [2] 128/7 128/24  
LEA [2] 111/25 112/1  
lead [2] 54/24 66/19  
leaders [1] 25/9  
leadership [1] 132/23  
leading [1] 3/12  
learner [2] 118/10 118/16  
learners [3] 9/7 114/17 114/21  
learning [1] 124/10  
leased [1] 134/22  
least [9] 14/8 19/24 20/3 20/14 30/6  
41/15 51/7 95/13 134/19  
leave [3] 10/10 111/2 157/22  
led [3] 8/5 42/1 108/16  
leeway [1] 51/15  
left [2] 134/24 164/21  
legal [18] 6/19 10/3 14/15 21/15 27/9  
27/23 29/19 29/25 36/15 42/25 49/18  
89/9 89/23 92/12 92/20 149/21 151/6

151/23  
legally [3] 19/18 80/18 80/21  
legislation [1] 128/18  
legislative [2] 49/14 109/1  
legislature [4] 20/7 20/17 64/1 85/7  
legitimate [3] 86/13 87/25 108/20  
LEON [1] 169/2  
less [2] 137/18 137/24  
let [8] 10/23 79/13 90/7 104/25 122/8  
124/12 133/10 164/16  
let's [3] 19/22 136/18 157/24  
letter [11] 12/4 12/7 12/8 34/6 38/10  
38/12 39/7 73/8 83/1 159/14 164/1  
level [8] 57/21 57/25 58/12 67/12 69/8  
69/14 142/25 142/25  
lies [1] 146/22  
lifespan [2] 63/13 63/14  
liftoff [1] 38/15  
light [2] 11/23 102/6  
like [69] 15/14 15/15 18/16 21/6 26/6  
29/18 33/2 39/3 39/9 39/12 44/14 46/9  
47/2 48/22 52/9 52/10 53/1 53/1 53/15  
54/13 55/8 56/11 57/24 60/13 62/4  
64/15 64/15 65/3 67/10 68/23 69/10  
69/11 71/5 71/12 72/5 72/17 73/7 78/6  
78/19 86/16 86/17 86/20 86/21 88/16  
93/21 94/24 96/13 111/5 111/6 111/16  
111/18 115/17 115/18 115/20 125/6  
126/22 127/21 134/7 134/18 135/10  
139/2 139/24 141/11 141/25 152/22  
155/9 159/3 159/24 162/19  
likewise [1] 83/3  
limited [1] 92/11  
Lindsey [3] 21/18 105/1 105/6  
line [11] 24/11 24/12 93/19 115/11  
116/8 125/12 130/16 132/4 132/4  
135/17 155/25  
lines [2] 68/12 108/6  
links [1] 40/13  
list [11] 7/3 7/5 59/8 59/11 59/13 59/18  
59/19 59/20 65/22 135/10 146/4  
listed [2] 76/6 80/19  
listened [4] 68/7 88/7 88/8 88/11  
listening [1] 94/17  
literally [1] 65/10  
little [30] 4/8 6/2 11/9 12/1 37/2 38/8  
40/8 40/19 41/8 41/9 53/14 54/8 61/7  
67/24 68/6 68/6 75/18 81/3 90/8 90/21  
111/8 111/14 111/20 116/3 123/13  
127/5 149/21 153/1 156/14 161/15  
live [2] 39/24 64/1  
lives [1] 56/1  
loan [14] 68/16 159/1 159/19 159/20  
160/2 160/16 160/18 161/16 161/17  
162/4 162/5 162/11 162/15 163/4  
loans [1] 48/23  
local [8] 54/2 57/8 57/25 58/12 63/8  
66/1 89/16 142/11  
locally [1] 64/4  
located [2] 60/7 96/21  
LOCATION [1] 1/13  
locations [1] 121/5  
long [2] 7/3 10/11  
longer [6] 37/10 50/25 52/6 55/23  
102/2 163/15  
look [29] 6/2 21/11 29/3 33/22 36/2  
38/4 47/10 71/10 71/12 88/20 91/18  
95/20 96/5 96/6 96/11 98/12 106/1  
106/5 107/10 107/14 108/1 111/6  
143/22 156/1 156/15 156/16 158/8

L  
 look... [2] 158/10 162/5  
 looked [11] 32/5 32/10 32/18 35/9  
 39/10 39/19 62/25 63/1 135/11 158/5  
 158/13  
 looking [25] 35/24 38/7 39/5 39/6 39/12  
 49/25 75/22 90/20 95/17 96/1 96/14  
 110/21 132/3 132/21 132/24 142/23  
 143/2 152/21 155/2 162/2 162/21  
 163/2 163/20 164/6 164/9  
 looks [7] 69/10 73/6 94/24 111/17  
 134/17 152/22 159/2  
 lose [1] 122/2  
 loss [1] 153/3  
 lot [32] 5/4 5/7 7/19 9/10 10/9 10/16  
 14/18 24/7 36/21 54/2 55/22 57/1  
 60/25 64/17 74/15 82/2 82/3 82/4 82/4  
 85/3 94/14 94/18 106/23 127/15  
 130/14 142/24 146/17 151/9 155/9  
 155/19 155/25 156/13  
 loud [3] 79/23 98/23 143/10  
 love [5] 89/9 89/18 124/4 127/19  
 155/14  
 low [1] 98/24  
 lower [1] 137/18  
 lowering [1] 87/5  
 lunch [13] 5/3 5/7 78/7 113/18 146/18  
 148/17 148/20 149/1 149/18 151/12  
 151/14 153/1 153/2

M  
 ma'am [7] 70/20 89/4 89/25 90/16  
 103/2 114/10 158/19  
 Madam [3] 11/1 19/5 45/25  
 made [17] 9/16 21/1 27/5 27/17 38/4  
 39/16 43/16 51/17 56/7 57/20 58/9  
 58/12 62/21 63/25 73/10 74/7 163/9  
 main [2] 58/5 84/5  
 maintain [3] 23/14 131/3 136/5  
 maintained [2] 131/1 136/8  
 maintenance [19] 23/11 23/19 129/9  
 129/10 129/15 129/18 129/21 130/1  
 130/17 131/10 131/18 132/7 133/25  
 135/16 135/23 136/3 136/13 155/21  
 157/15  
 major [3] 23/18 68/25 134/4  
 majority [16] 12/9 12/10 12/20 12/22  
 20/17 20/18 20/20 26/23 27/5 27/13  
 30/8 39/11 106/19 129/18 146/16  
 157/14  
 make [50] 4/11 6/15 7/20 7/23 8/20  
 10/23 15/24 18/10 34/2 37/24 39/24  
 44/14 52/16 54/19 73/24 76/18 76/19  
 77/21 78/3 78/13 79/2 79/5 79/23  
 82/18 92/9 93/16 95/7 97/12 97/13  
 100/13 107/20 112/7 114/13 114/25  
 115/23 115/24 117/7 125/20 136/7  
 140/9 144/18 150/13 153/7 153/8  
 163/1 163/19 163/20 165/4 166/15  
 168/11  
 makes [2] 50/19 75/13  
 making [8] 8/21 15/11 17/15 35/25  
 39/21 115/2 119/16 168/2  
 managed [2] 48/5 64/12  
 management [11] 23/17 53/1 64/13  
 65/20 66/22 72/6 72/7 72/8 72/18  
 122/21 157/6  
 manager [7] 47/15 50/15 50/22 51/19  
 54/15 69/20 69/24  
 many [16] 24/3 24/9 39/13 58/19 58/19

58/20 58/20 63/24 91/21 109/13 120/8  
 121/11 134/21 137/1 155/11 156/12  
 March [1] 12/12  
 market [1] 48/25  
 marketed [1] 59/22  
 Marlowe [2] 69/21 69/24  
 master [1] 106/15  
 master's [1] 106/13  
 match [1] 23/25  
 matched [1] 16/20  
 material [7] 4/18 5/11 9/20 38/12 70/4  
 81/15 158/7  
 materials [6] 5/20 18/12 70/17 120/8  
 128/17 162/21  
 math [2] 62/17 62/17  
 matter [5] 12/16 29/1 63/16 99/11  
 137/1  
 matters [1] 4/17  
 Matthew [4] 19/6 128/4 159/12 162/8  
 may [27] 14/13 17/12 22/25 29/17  
 36/13 36/16 36/19 40/6 46/12 47/15  
 56/23 67/6 67/22 69/17 71/13 74/4  
 74/13 102/18 103/21 120/4 137/23  
 150/12 156/18 162/9 162/25 162/25  
 168/1  
 May 6th [2] 36/16 36/19  
 maybe [11] 31/15 37/10 63/18 109/24  
 110/16 110/23 115/16 131/16 152/4  
 154/16 160/25  
 Mayor [6] 47/7 47/7 59/12 69/21 69/24  
 73/8  
 me [34] 10/23 10/24 10/25 26/25 31/9  
 31/12 33/19 36/2 37/11 40/14 53/14  
 68/11 73/20 76/8 79/13 90/4 90/7  
 90/10 91/2 94/9 95/18 95/22 98/1  
 100/13 101/17 105/4 107/11 110/17  
 111/3 122/5 122/8 158/7 164/17 169/6  
 mean [13] 36/1 41/12 50/4 91/5 93/1  
 95/18 107/22 111/9 115/18 139/5  
 147/15 151/9 151/22  
 meaning [3] 14/6 50/10 163/14  
 means [4] 20/14 27/5 27/7 128/22  
 meant [2] 12/20 13/5  
 meat [1] 94/9  
 meaty [1] 83/7  
 media [1] 13/20  
 meet [14] 12/24 16/25 44/17 45/4  
 78/23 86/8 86/17 87/18 87/24 103/19  
 108/17 120/7 146/8 155/6  
 meeting [19] 3/5 3/13 4/20 5/21 7/1 9/2  
 17/8 46/22 47/4 69/9 70/14 71/13  
 78/22 82/12 82/17 82/23 84/15 84/21  
 167/24  
 meetings [3] 4/9 21/22 85/1  
 meets [23] 29/13 34/18 85/25 87/1  
 97/18 98/7 99/5 100/16 112/15 112/22  
 114/17 118/11 118/17 119/12 125/25  
 127/1 140/12 141/8 144/23 145/22  
 153/12 154/10 165/12  
 member [11] 12/13 17/4 19/5 50/21  
 54/7 56/1 57/10 59/1 107/1 125/19  
 132/20  
 Member's [1] 10/7  
 members [77] 2/1 3/12 4/14 4/15 9/15  
 9/19 18/8 24/24 27/25 29/16 30/15  
 31/3 34/23 37/23 41/17 44/5 46/24  
 47/5 49/21 52/15 53/20 53/25 56/17  
 62/11 62/11 64/7 66/9 66/25 67/8  
 67/12 69/23 71/20 73/23 76/12 76/17  
 77/24 78/11 79/3 88/25 97/11 98/21

100/20 100/21 105/4 110/15 112/7  
 114/19 114/22 117/25 118/6 118/22  
 121/14 124/25 125/9 126/6 127/4  
 129/2 132/10 140/6 140/18 141/7  
 141/15 142/20 144/7 144/15 145/6  
 147/11 153/4 153/20 154/20 157/24  
 158/16 164/25 165/19 166/24 168/1  
 168/7  
 Members' [1] 10/11  
 membership [1] 142/15  
 mention [4] 27/18 47/15 59/6 67/16  
 mentioned [17] 11/4 20/21 35/1 46/25  
 54/22 54/24 56/20 67/3 74/10 111/23  
 121/2 128/14 132/8 147/6 158/6  
 158/13 158/20  
 mentions [1] 23/24  
 merit [2] 48/20 130/14  
 meritless [1] 24/18  
 meritorious [2] 119/18 120/17  
 merits [16] 6/20 8/19 8/21 10/4 16/8  
 21/8 79/8 79/12 80/5 84/20 95/17  
 95/20 96/6 99/17 117/11 117/14  
 met [13] 18/7 21/13 25/6 25/25 26/14  
 31/16 39/23 44/10 86/6 86/7 88/18  
 98/13 155/8  
 Miami [1] 58/17  
 mic [1] 7/20  
 MICHELLE [3] 1/15 169/4 169/20  
 michellesubia [1] 1/23  
 microphone [2] 5/2 75/18  
 middle [1] 52/22  
 might [19] 4/24 5/5 6/2 30/18 33/22  
 51/3 95/12 95/13 96/10 99/20 100/20  
 101/5 105/16 111/2 116/3 149/21  
 154/13 154/14 161/8  
 mileage [1] 142/12  
 Miller [1] 20/9  
 Miller's [1] 29/9  
 million [6] 47/17 73/11 159/3 159/7  
 159/8 162/11  
 mind [5] 58/15 81/21 107/11 143/13  
 144/4  
 mine [1] 64/15  
 minimum [2] 30/22 40/21  
 minute [9] 5/6 27/16 77/16 84/15 115/3  
 115/24 116/1 117/4 117/15  
 minutes [25] 8/13 9/13 9/23 10/2 10/3  
 10/4 10/20 17/3 19/3 26/3 46/8 46/15  
 69/11 79/7 79/12 79/25 80/2 84/15  
 90/2 99/17 99/19 117/10 154/16  
 154/17 154/18  
 misapprehend [1] 62/9  
 mishear [1] 74/18  
 misinterpreting [1] 116/16  
 misnomer [1] 92/3  
 misnumbered [1] 101/8  
 miss [3] 34/11 34/13 99/11  
 missed [3] 68/1 168/5 168/7  
 missing [2] 74/18 74/21  
 misstate [1] 130/15  
 misstatement [1] 22/13  
 misstatements [2] 25/12 62/7  
 mistake [2] 44/1 44/2  
 Mistakes [1] 44/3  
 mold [1] 54/4  
 moment [6] 11/4 46/12 57/10 69/17  
 107/12 131/13  
 moments [1] 20/21  
 Monday [1] 1/11  
 money [5] 54/14 55/10 63/4 131/7

**M**  
money... [1] 144/13  
monitors [1] 108/6  
month [1] 148/25  
months [6] 14/20 27/18 37/3 38/21  
41/24 155/3  
moot [1] 152/24  
more [23] 12/23 17/16 20/14 27/6 27/7  
27/14 34/24 37/25 42/3 54/1 58/14  
63/20 63/21 67/21 116/3 123/20  
142/24 143/3 143/25 154/14 158/20  
160/23 161/11  
MORENO [12] 2/4 4/1 45/13 51/24  
72/1 77/7 116/5 118/5 129/11 143/16  
144/9 162/10  
moreover [1] 116/23  
morning [9] 3/2 3/4 19/4 22/11 22/16  
28/19 54/6 69/23 105/3  
most [8] 18/11 57/12 64/14 95/19  
111/3 130/1 143/25 162/5  
mostly [1] 16/19  
motion [52] 6/5 6/6 37/24 44/7 44/9  
44/14 44/21 44/25 45/10 45/21 52/16  
73/24 76/18 76/25 77/14 84/1 97/12  
97/13 97/21 98/1 98/3 98/4 99/1 99/1  
100/12 112/8 112/19 113/16 118/7  
118/14 119/10 125/20 126/2 126/5  
126/19 140/9 140/15 141/5 144/18  
145/2 145/18 153/7 153/16 154/7  
154/9 165/4 165/15 166/12 166/15  
167/12 167/13 168/3  
MOU [1] 53/2  
move [18] 8/10 8/17 26/5 44/15 45/2  
52/23 76/21 97/9 97/15 112/12 118/8  
125/22 126/21 140/10 144/21 153/10  
165/8 165/20  
moved [2] 148/18 165/17  
movement [2] 53/16 54/9  
moves [1] 88/23  
moving [5] 5/10 10/18 78/8 130/25  
135/9  
Mr [6] 24/8 51/24 72/1 85/3 103/9  
143/16  
Mr. [13] 69/7 79/20 115/13 116/5  
117/13 117/16 118/5 129/11 139/18  
144/9 148/10 151/15 162/10  
Mr. Arnold [4] 69/7 115/13 117/13  
117/16  
Mr. Durden [1] 148/10  
Mr. Harmon [3] 79/20 139/18 151/15  
Mr. Moreno [5] 116/5 118/5 129/11  
144/9 162/10  
Ms [9] 28/8 34/12 53/19 57/6 68/13  
101/21 102/8 104/5 124/15  
Ms. [12] 4/10 21/18 62/5 63/17 63/24  
74/21 105/1 107/17 119/15 121/2  
121/21 122/16  
Ms. Certain [1] 62/5  
Ms. Certain's [1] 63/24  
Ms. Gay [1] 119/15  
Ms. Lindsey [1] 105/1  
Ms. Pauline [6] 4/10 74/21 107/17  
121/2 121/21 122/16  
Ms. Pauline's [1] 63/17  
Ms. Sherry [1] 21/18  
much [15] 57/17 92/5 92/18 125/13  
125/14 125/15 125/17 137/18 143/6  
144/2 144/12 155/9 159/5 159/24  
163/16  
multi [2] 119/23 122/18

multi-year [2] 119/23 122/18  
multiple [2] 127/23 128/14  
municipal [19] 17/16 24/17 24/19 48/11  
48/12 49/10 49/12 49/19 50/2 52/14  
74/14 74/17 74/23 75/2 75/3 75/5  
75/14 76/24 101/6  
municipal-sponsored [1] 74/17  
municipalities [2] 55/24 58/19  
municipality [7] 8/24 9/18 45/23 46/7  
46/18 56/15 60/12  
Murdaugh [2] 46/21 47/1  
museum [1] 75/25  
must [14] 12/11 18/22 19/24 20/24  
26/25 30/5 37/6 64/18 73/15 73/16  
92/24 96/20 97/1 128/21  
mute [1] 166/6  
mutual [2] 44/1 133/19  
my [43] 3/14 8/1 10/21 11/4 19/5 27/18  
31/6 31/10 33/21 34/21 36/12 40/12  
44/8 49/6 54/8 68/20 69/4 73/14 79/2  
79/14 79/14 90/7 90/8 91/1 91/24 96/4  
98/10 98/19 105/6 121/23 122/9  
123/21 126/23 128/3 131/15 148/12  
150/10 151/6 152/14 160/7 162/21  
169/7 169/8  
myself [5] 4/19 41/11 55/25 64/20  
115/10

**N**  
name [8] 3/14 8/1 11/4 19/5 47/11 76/2  
105/6 128/4  
named [1] 60/14  
National [5] 146/17 148/16 148/20  
148/25 149/18  
navigate [1] 6/24  
NCS [5] 17/14 24/16 65/24 70/19 76/8  
necessarily [2] 60/25 61/2  
necessary [2] 32/21 40/21  
neck [2] 129/22 129/22  
need [25] 10/5 41/8 62/2 70/22 72/23  
78/25 80/1 85/17 90/2 95/20 96/10  
97/23 102/9 103/21 107/7 108/7 115/3  
116/3 131/11 135/18 150/1 150/17  
151/22 154/14 162/17  
needed [17] 13/6 14/22 16/5 18/10  
30/25 41/19 41/20 44/6 82/17 100/22  
101/11 107/9 119/14 135/24 147/1  
150/3 150/9  
needing [1] 131/16  
needs [14] 7/9 7/15 27/9 47/19 59/16  
72/12 72/21 103/19 106/16 108/17  
109/11 120/8 135/22 149/25  
negate [2] 87/25 116/25  
negotiated [3] 62/5 135/23 159/20  
negotiations [2] 7/2 138/15  
neither [1] 87/4  
neutral [2] 27/20 33/15  
never [2] 15/20 85/9  
nevertheless [2] 111/3 131/5  
new [19] 34/1 57/9 62/11 62/14 83/17  
89/13 92/6 92/7 92/8 92/15 102/5  
121/20 122/10 122/14 123/2 123/2  
128/16 128/18 160/11  
NEWBERRY [39] 1/7 3/8 11/11 12/14  
17/7 17/9 19/7 19/7 19/10 25/24 44/16  
45/3 53/25 55/18 55/24 56/6 56/9  
57/16 60/10 63/15 65/19 65/22 65/25  
66/6 66/16 70/19 71/14 73/9 76/4 76/5  
76/15 76/22 103/19 108/3 128/4  
142/16 159/15 166/16 166/19

Newberry's [1] 73/8  
news [1] 4/13  
newspaper [2] 40/18 41/22  
next [12] 45/23 46/6 66/20 100/12  
100/15 114/15 119/11 126/21 126/25  
133/12 141/7 145/20  
nine [2] 134/19 141/23  
no [74] 16/4 17/4 17/4 18/22 20/2 20/5  
22/14 23/1 24/17 26/13 29/1 30/2  
32/15 32/22 33/11 33/16 33/17 33/18  
34/12 43/10 45/18 45/20 48/3 48/10  
48/20 49/10 49/18 50/25 52/6 55/22  
57/3 60/14 61/2 65/13 67/19 70/25  
73/17 79/17 79/18 88/18 95/1 99/25  
102/1 103/2 104/15 113/4 114/23  
116/7 116/21 118/4 118/23 125/18  
126/7 132/3 137/1 139/8 140/7 140/19  
144/16 145/7 150/14 150/16 150/19  
153/5 153/21 160/24 163/15 164/23  
165/2 165/21 166/4 166/25 167/8  
168/9  
nobody [4] 28/14 39/10 39/19 43/6  
nods [1] 79/18  
nonanswer [1] 38/9  
noncapital [1] 23/18  
none [3] 82/10 119/25 120/24  
nonprofit [3] 17/13 71/23 76/1  
nonrenew [1] 50/24  
normal [1] 91/6  
normally [7] 74/16 99/14 128/20  
143/23 143/25 147/7 153/3  
northwest [1] 56/11  
not [238]  
not-for-profit [2] 22/21 24/22  
Notary [2] 1/16 169/20  
note [7] 16/14 16/14 16/14 32/13 77/21  
133/20 163/3  
noted [4] 16/23 17/22 82/9 156/20  
notes [4] 90/9 156/15 158/1 169/7  
nothing [9] 17/16 24/10 34/16 49/9  
52/11 71/1 85/15 85/17 147/2  
notice [2] 31/14 168/11  
noticed [1] 4/7  
notices [2] 12/18 13/23  
notified [3] 13/19 14/14 41/17  
notify [4] 50/15 50/21 51/4 52/5  
noting [1] 128/13  
notion [1] 62/3  
November [3] 73/7 80/13 80/14  
November 2024 [1] 73/7  
now [34] 5/23 10/15 10/18 10/25 43/24  
49/12 49/16 49/16 61/4 61/8 90/10  
94/4 96/10 107/17 111/11 117/7 122/5  
128/22 132/23 133/2 133/9 133/16  
135/10 135/11 138/9 147/7 149/23  
151/24 154/9 157/12 161/10 161/13  
162/2 167/16  
number [14] 31/12 57/12 105/20  
108/13 108/14 130/5 132/8 135/5  
137/1 143/5 150/13 155/5 161/8 164/7  
numbered [1] 169/9  
numbers [2] 130/11 135/22  
numerous [3] 18/3 18/6 29/8  
Nutrition [1] 148/1

**O**  
object [3] 32/12 32/14 54/17  
objected [1] 32/17  
objective [4] 33/24 81/11 89/19 111/11  
obligated [1] 157/14

O  
obligation [2] 86/18 134/8  
obligations [1] 130/1  
obvious [1] 13/24  
occasion [1] 158/21  
occur [3] 78/25 122/23 124/8  
occurred [6] 14/4 14/25 32/9 43/18  
47/24 57/11  
occurs [2] 104/13 120/1  
off [12] 7/5 61/21 122/6 122/7 122/9  
130/20 134/24 137/3 137/19 143/11  
146/24 148/18  
offer [2] 62/20 160/12  
office [4] 72/10 138/25 139/12 139/23  
officer [1] 73/12  
often [3] 32/5 58/20 62/12  
Oh [2] 101/7 102/24  
okay [55] 7/14 10/25 26/9 28/2 30/13  
30/20 33/21 40/2 42/18 44/20 45/7  
45/10 45/25 46/3 52/22 52/24 53/13  
63/12 74/1 79/15 79/20 79/22 90/6  
90/12 90/17 92/21 96/1 97/14 98/25  
99/14 99/22 100/1 102/24 105/4  
112/10 115/22 117/17 117/24 120/11  
121/12 122/8 133/13 141/5 143/15  
144/14 144/19 145/18 146/13 153/9  
153/22 154/7 160/25 164/23 166/7  
168/7  
older [1] 63/11  
once [6] 9/12 30/9 32/5 35/16 97/25  
167/17  
one [82] 4/21 4/22 4/25 12/10 12/15  
12/21 12/24 14/2 14/13 14/23 20/5  
23/7 27/12 27/22 29/22 33/10 34/24  
36/18 37/4 37/25 38/14 46/12 46/24  
48/6 52/17 55/17 55/24 57/3 57/12  
58/14 65/17 67/21 71/21 71/21 73/6  
81/9 83/1 84/19 84/25 86/5 88/18  
88/19 93/21 99/10 102/25 105/16  
107/2 107/2 107/4 107/5 113/20 116/1  
116/7 117/15 121/11 123/16 123/20  
131/13 131/19 132/12 135/4 135/7  
136/17 138/2 142/9 142/10 142/14  
142/23 143/17 148/24 156/3 156/12  
156/22 157/9 158/21 160/10 162/14  
163/3 163/9 164/24 165/6 166/13  
one-and-a-half [1] 83/1  
one-hour [1] 84/19  
one-third [1] 142/14  
one-to-one [1] 107/2  
ones [3] 64/14 78/9 158/6  
online [1] 123/12  
only [25] 4/16 4/21 17/5 21/11 22/5  
26/16 26/23 32/3 32/4 37/3 41/23  
60/21 61/9 86/5 94/4 103/18 104/6  
127/13 130/19 131/15 143/17 147/1  
147/19 150/19 152/7  
open [7] 9/14 29/16 49/22 89/23  
100/19 114/19 142/20  
opening [8] 8/23 9/12 10/2 10/18 81/8  
82/16 136/1 141/12  
operate [5] 72/21 86/3 105/22 149/5  
150/9  
operated [2] 11/12 64/4  
operates [1] 131/20  
operating [9] 69/25 70/4 70/15 70/16  
128/23 138/7 148/24 160/1 161/18  
operation [1] 148/14  
operational [1] 47/18  
operations [3] 48/2 148/15 162/4

operative [2] 149/24 150/7  
opine [1] 89/8  
opining [1] 89/17  
opinion [8] 31/23 44/8 89/6 89/7 89/17  
90/22 91/12 96/7  
opportunity [18] 10/7 15/16 26/11  
31/19 31/24 32/3 32/23 33/6 43/22  
48/7 50/8 57/15 67/7 95/6 107/9  
124/13 131/12 138/14  
opposed [3] 38/4 49/3 111/16  
option [3] 58/23 60/1 137/8  
oral [1] 21/23  
Orange [2] 94/13 151/3  
order [7] 4/25 6/18 27/8 59/18 83/8  
106/23 127/25  
orders [1] 127/25  
organization [6] 17/14 51/16 65/23  
76/1 76/3 76/8  
organizational [1] 66/15  
organizations [1] 123/10  
OSVALDO [22] 2/5 3/24 29/19 44/24  
45/15 76/20 77/5 99/5 100/3 112/11  
113/7 118/21 119/3 126/10 140/24  
145/5 145/12 150/25 153/24 165/18  
166/1 167/3  
other [66] 18/8 25/2 26/20 27/19 29/10  
30/14 31/2 33/10 34/23 39/9 48/6  
51/22 52/15 54/2 55/16 55/17 56/17  
62/4 62/7 62/18 64/6 65/2 65/6 66/25  
71/19 72/14 73/4 73/23 74/10 76/1  
85/1 86/11 86/11 86/12 86/21 104/16  
104/21 106/9 106/11 106/18 108/11  
110/14 115/12 116/10 123/10 124/24  
125/6 125/8 126/6 132/9 134/10 135/4  
136/15 136/22 140/5 144/6 144/15  
151/9 151/10 153/4 155/9 158/6  
158/12 158/25 159/8 164/25  
others [3] 60/15 64/15 109/10  
our [63] 3/16 3/19 3/21 4/9 4/19 4/20  
6/8 21/19 22/17 24/21 29/8 29/18 30/8  
30/10 30/17 32/5 32/13 36/9 37/18  
43/12 43/16 43/17 43/20 44/9 51/21  
55/24 56/10 56/13 56/15 59/7 59/10  
59/16 59/21 77/24 80/8 80/8 81/2 81/8  
83/5 83/10 89/10 89/20 90/22 95/9  
98/9 101/22 103/22 106/22 108/22  
115/17 117/18 117/22 117/23 130/13  
136/3 141/16 145/20 149/11 149/11  
149/12 151/2 151/19 154/9  
out [52] 3/19 5/6 12/1 13/23 26/12 32/7  
32/15 34/14 37/17 39/4 39/13 39/20  
40/17 40/23 41/18 42/16 48/3 49/8  
49/11 53/6 54/12 54/14 55/3 55/12  
56/2 60/2 66/14 81/22 86/5 94/8 95/14  
101/22 106/7 107/1 111/16 115/15  
117/18 119/17 122/18 124/3 124/22  
125/10 125/12 128/7 128/24 136/23  
138/16 139/19 146/22 147/24 150/12  
156/13  
outcome [5] 11/23 13/19 34/4 42/2  
42/8  
outlined [3] 15/5 68/24 141/19  
outlines [1] 146/3  
outlining [2] 12/19 73/9  
outside [5] 56/8 68/17 92/1 123/8  
156/10  
over [25] 4/22 13/7 14/19 15/25 22/12  
31/24 36/5 41/13 43/9 47/16 56/11  
63/3 67/19 68/22 80/15 90/7 122/18  
122/24 123/5 123/13 127/12 128/8

136/9 148/14 158/7  
overall [2] 17/21 153/2  
overcome [1] 44/3  
overcrowded [1] 59/10  
overcrowding [1] 134/7  
overhaul [1] 122/12  
overlooks [1] 119/25  
override [1] 20/7  
overrule [1] 29/2  
oversee [1] 116/17  
overseen [1] 13/9  
oversight [2] 47/16 122/21  
overview [2] 121/10 154/15  
overwhelmingly [1] 58/10  
own [5] 136/6 138/13 138/22 149/17  
159/6  
owned [1] 134/24  
ownership [1] 133/21  
owns [1] 133/25  
P  
p.m [2] 1/12 168/15  
packet [2] 164/16 164/17  
page [22] 9/4 16/11 16/19 22/24 40/21  
41/2 75/22 83/1 131/25 141/22 146/3  
146/4 155/3 155/3 155/3 155/5 161/8  
163/24 164/7 164/10 164/14 164/15  
pages [6] 109/14 142/1 146/3 146/9  
155/13 169/9  
paid [6] 23/4 54/15 54/23 55/9 108/7  
109/7  
Pandemic [1] 135/9  
panel [2] 4/14 89/20  
paper [1] 17/12  
paragraph [1] 96/22  
paraprofessionals [2] 105/21 109/9  
parent [2] 38/10 58/10  
parents [17] 12/3 12/11 20/20 41/19  
54/4 54/11 57/14 57/14 57/24 59/25  
60/19 60/20 60/20 60/22 62/16 63/20  
64/2  
part [23] 39/6 49/13 53/5 53/24 55/21  
56/13 56/15 58/2 60/9 60/15 61/19  
69/11 99/11 103/5 105/1 105/25  
108/11 123/18 124/10 125/2 130/3  
132/6 136/21  
partially [2] 86/8 155/7  
participate [1] 61/5  
participating [2] 148/19 149/17  
participation [4] 4/12 74/8 149/1 156/24  
particular [3] 26/4 33/13 122/19  
parties [52] 6/22 8/13 9/13 10/6 15/2  
16/2 18/8 20/6 20/25 21/4 23/16 25/20  
26/3 26/10 26/18 26/22 27/10 27/19  
27/24 28/14 30/21 31/14 34/17 35/25  
36/25 37/3 37/12 37/21 38/3 39/5 40/4  
41/15 41/25 44/3 46/3 46/8 53/15 62/6  
89/1 91/12 91/17 92/8 94/2 96/13  
113/18 115/24 117/7 167/22 167/24  
168/2 168/12 169/12  
parties' [5] 12/25 13/4 13/11 16/5  
169/13  
partner [8] 46/25 47/23 48/22 65/22  
76/2 76/3 76/8 76/15  
partnered [1] 54/4  
partnering [1] 65/24  
partnership [2] 24/25 163/14  
parts [1] 137/3  
party [7] 15/13 35/1 42/3 79/7 95/5  
146/24 150/4

<p>P</p> <p>pass [6] 12/9 14/22 22/7 31/1 34/7 109/8</p> <p>pass-through [1] 109/8</p> <p>passed [2] 41/15 128/18</p> <p>patience [1] 3/4</p> <p>PAULINE [16] 2/6 4/3 4/10 34/12 45/17 53/19 57/6 68/13 69/19 74/21 77/9 102/8 107/17 121/2 121/21 122/16</p> <p>Pauline's [2] 63/17 124/15</p> <p>pause [1] 113/17</p> <p>pay [5] 23/6 23/13 73/12 163/22 164/20</p> <p>paychecks [1] 52/9</p> <p>paying [1] 131/21</p> <p>payroll [1] 159/25</p> <p>pays [1] 161/16</p> <p>PDF [4] 161/8 164/8 164/14 164/16</p> <p>Pembroke [1] 75/4</p> <p>pending [1] 168/4</p> <p>people [15] 30/17 43/4 54/5 55/1 55/10 60/11 60/25 61/4 62/14 65/11 72/15 75/10 77/22 116/10 139/12</p> <p>per [12] 9/25 48/25 51/10 51/13 73/13 125/13 131/18 131/21 143/4 152/25 156/23 163/5</p> <p>per-student [1] 143/4</p> <p>percent [34] 12/10 12/15 12/20 12/24 14/2 14/8 14/13 14/22 19/24 20/3 20/9 20/14 20/14 25/6 27/6 27/12 27/22 29/11 29/12 29/21 30/6 30/22 37/4 38/14 61/4 61/7 62/16 63/20 63/21 63/22 111/5 138/4 138/5 157/7</p> <p>Perfect [1] 78/3</p> <p>perform [3] 129/18 130/1 131/9</p> <p>performance [6] 9/5 88/24 97/10 97/17 98/6 99/4</p> <p>perhaps [1] 68/1</p> <p>period [5] 14/20 39/2 71/11 122/18 136/12</p> <p>periods [1] 39/8</p> <p>permissible [1] 25/17</p> <p>permissive [1] 104/14</p> <p>permit [5] 6/22 8/12 9/13 9/23 119/13</p> <p>permitted [1] 80/25</p> <p>person [4] 4/21 52/6 52/8 54/15</p> <p>personal [1] 4/10</p> <p>personally [1] 94/6</p> <p>personnel [4] 50/15 65/7 80/16 154/24</p> <p>personnel's [1] 151/20</p> <p>perspective [5] 32/5 51/21 89/19 120/25 146/5</p> <p>petition [1] 15/17</p> <p>petty [1] 81/14</p> <p>phone [1] 10/21</p> <p>pick [1] 62/14</p> <p>picks [1] 38/17</p> <p>picture [1] 68/11</p> <p>piece [3] 33/10 46/14 106/9</p> <p>pieces [1] 12/19</p> <p>piggyback [2] 67/3 111/22</p> <p>Pineda [1] 3/19</p> <p>Pines [1] 75/4</p> <p>place [22] 8/4 12/16 13/7 14/19 15/2 15/9 17/19 37/2 51/11 53/3 60/14 85/8 129/17 134/8 138/8 139/11 152/19 159/21 160/1 160/2 160/4 169/6</p> <p>placed [1] 134/2</p> <p>places [1] 5/7</p> <p>plain [1] 20/15</p>	<p>plan [15] 73/19 102/17 103/6 110/25 119/21 119/24 127/9 128/10 128/25 134/3 134/9 141/8 146/6 155/6 156/24</p> <p>planning [9] 77/17 116/19 125/6 136/12 148/19 149/16 162/6 162/12 162/16</p> <p>play [1] 102/15</p> <p>please [17] 3/22 7/20 8/20 31/5 31/8 45/1 45/12 77/4 77/24 89/3 113/5 118/24 126/9 140/21 145/9 153/23 166/15</p> <p>pledge [1] 47/18</p> <p>plumbing [1] 23/19</p> <p>plus [13] 12/10 12/15 12/20 12/24 14/2 14/13 14/22 27/12 27/22 29/21 37/4 38/14 47/17</p> <p>podium [2] 5/2 77/24</p> <p>point [45] 8/4 9/17 9/19 12/1 22/7 26/12 31/21 32/12 32/17 32/20 34/1 34/14 35/6 35/6 35/11 36/25 41/5 43/6 43/24 46/19 48/6 49/11 50/13 51/25 66/14 68/10 72/16 86/5 94/7 103/8 103/10 105/19 120/23 123/24 125/10 129/9 129/19 135/7 138/15 149/24 150/7 152/24 160/20 160/23 162/3</p> <p>pointed [3] 57/3 101/22 139/19</p> <p>pointing [1] 119/17</p> <p>points [4] 19/9 36/11 70/3 160/11</p> <p>policy [1] 85/4</p> <p>population [4] 61/8 102/21 103/1 106/5</p> <p>portable [1] 128/12</p> <p>portables [11] 128/11 128/22 134/20 134/22 134/23 134/24 135/6 135/15 136/22 137/23 138/12</p> <p>portions [1] 123/4</p> <p>position [21] 8/14 10/21 11/20 13/5 13/25 15/3 15/6 43/12 43/20 66/23 80/8 81/2 81/14 83/5 83/10 108/9 108/22 110/20 115/17 136/1 137/25</p> <p>positions [2] 14/4 14/24</p> <p>possible [2] 78/7 115/20</p> <p>posted [2] 13/17 13/20</p> <p>potentially [1] 49/15</p> <p>power [1] 137/21</p> <p>PowerPoint [2] 163/23 164/3</p> <p>powers [1] 18/25</p> <p>pre [5] 101/14 102/19 102/22 103/4 103/18</p> <p>pre-K [5] 101/14 102/19 102/22 103/4 103/18</p> <p>precedent [3] 47/1 47/2 49/15</p> <p>precisely [2] 22/3 64/23</p> <p>preferences [1] 127/10</p> <p>preparation [1] 150/6</p> <p>prepare [1] 10/14</p> <p>prepared [21] 37/23 44/6 52/16 76/18 83/9 84/23 85/1 90/1 97/11 98/16 106/7 112/7 125/20 140/8 144/17 146/24 147/3 149/22 153/6 154/23 165/4</p> <p>preparing [1] 78/17</p> <p>present [11] 9/14 27/15 47/9 74/25 85/6 99/15 99/19 117/4 126/22 141/12 167/25</p> <p>presentation [6] 8/17 15/24 26/14 27/16 117/8 163/23</p> <p>presented [12] 18/5 21/24 28/16 39/2 46/16 54/10 55/5 56/4 70/2 70/13 86/13 117/20</p> <p>preserve [2] 6/22 8/18</p>	<p>President [1] 46/21</p> <p>pretend [1] 41/1</p> <p>pretty [3] 42/12 84/20 159/5</p> <p>prevent [2] 67/10 67/11</p> <p>preventative [1] 23/18</p> <p>prices [1] 142/12</p> <p>primarily [1] 162/15</p> <p>principal [9] 12/4 39/7 50/14 50/19 50/21 52/5 61/16 66/17 66/17</p> <p>prior [8] 36/19 58/24 59/3 59/6 117/20 117/20 132/22 133/9</p> <p>private [1] 65/5</p> <p>probably [4] 24/7 38/8 102/5 116/2</p> <p>probing [2] 18/9 82/18</p> <p>problem [3] 35/3 35/7 112/6</p> <p>procedure [1] 9/17</p> <p>procedures [1] 91/6</p> <p>proceed [4] 12/5 25/20 51/6 90/13</p> <p>proceeding [2] 48/9 51/7</p> <p>proceedings [4] 10/13 168/14 169/5 169/10</p> <p>proceeds [4] 135/12 159/2 162/6 162/11</p> <p>process [19] 6/11 12/19 22/7 22/8 34/3 37/6 38/25 39/4 39/6 39/8 40/23 54/5 62/10 64/17 84/18 89/9 110/1 133/1 135/25</p> <p>professional [18] 9/8 116/9 116/19 119/12 121/14 121/25 122/11 122/12 122/22 124/10 124/18 125/2 125/21 125/24 156/4 156/7 156/9 169/4</p> <p>profit [2] 22/21 24/22</p> <p>program [13] 111/4 116/17 122/11 124/18 125/14 144/5 146/18 148/17 148/20 149/1 149/18 150/8 153/2</p> <p>programs [1] 56/21</p> <p>prohibit [1] 67/15</p> <p>prohibited [1] 17/18</p> <p>project [2] 59/8 59/11</p> <p>projected [4] 104/23 105/19 132/14 138/5</p> <p>projecting [3] 121/8 130/20 147/18</p> <p>projections [4] 127/10 137/14 138/2 138/4</p> <p>projects [2] 134/4 134/8</p> <p>promised [2] 57/9 59/19</p> <p>promises [1] 53/23</p> <p>promulgated [3] 15/10 35/11 39/14</p> <p>proper [4] 31/25 36/23 38/18 44/21</p> <p>properly [6] 20/11 21/15 27/8 28/17 63/6 120/2</p> <p>properties [1] 136/5</p> <p>property [10] 128/20 135/6 135/9 136/6 136/7 138/17 147/7 152/7 152/9 157/12</p> <p>proposal [2] 163/23 164/20</p> <p>proposed [4] 64/23 96/21 97/5 106/10</p> <p>proposing [1] 48/17</p> <p>protect [1] 112/5</p> <p>prove [1] 88/4</p> <p>proven [1] 55/12</p> <p>provide [26] 24/4 46/7 49/1 50/5 65/21 65/25 72/10 72/11 72/11 76/2 80/10 86/10 95/10 103/20 105/18 106/10 106/11 106/25 107/22 119/24 130/7 142/9 147/4 151/16 152/23 167/18</p> <p>provided [24] 14/12 16/18 16/22 17/2 19/23 40/14 53/4 57/5 62/6 70/9 70/16 81/25 82/7 90/24 103/14 112/4 120/21 121/6 127/11 141/20 141/21 146/23</p>
---	---	--

**P**  
provided... [2] 152/16 159/2  
provider [7] 17/12 51/20 52/1 52/13  
104/15 149/17 152/23  
providers [1] 52/1  
provides [8] 119/21 128/10 128/19  
134/1 142/11 147/7 156/8 163/15  
providing [6] 94/12 99/6 108/15 124/11  
139/6 159/16  
provision [4] 23/1 72/4 106/16 124/11  
provisions [2] 48/24 71/22  
prudent [1] 65/9  
PTA [1] 61/13  
public [15] 1/16 13/1 13/21 13/22 19/11  
21/22 30/5 41/17 55/11 55/12 65/3  
65/4 71/14 138/17 169/20  
publication [1] 31/14  
publications [1] 32/7  
publicized [1] 40/16  
publicly [1] 27/19  
published [1] 12/18  
pull [1] 107/1  
pupil [1] 142/5  
purchased [4] 147/23 147/25 151/8  
151/21  
pure [1] 42/25  
purpose [2] 34/18 66/12  
purposes [6] 20/1 95/15 119/16 124/9  
142/24 163/6  
pursuant [2] 44/18 45/6  
put [19] 3/11 20/15 20/23 22/17 28/5  
28/17 42/16 54/14 67/4 82/4 86/16  
87/13 94/14 115/20 120/6 125/14  
136/23 160/2 167/13  
putting [4] 81/21 136/2 152/25 158/9

**Q**  
qualify [1] 151/5  
quality [1] 65/25  
question [85] 10/7 28/18 30/21 31/4  
31/8 31/21 34/20 34/21 34/25 38/1  
40/4 41/12 42/11 51/8 51/25 52/18  
52/20 52/23 53/8 53/12 54/9 54/20  
55/15 56/19 58/15 63/17 65/13 65/16  
67/1 67/9 67/21 67/25 69/19 69/22  
69/25 70/6 70/12 70/20 70/25 71/7  
71/18 72/25 73/2 73/18 73/25 75/20  
80/21 84/1 84/5 84/6 86/20 89/2 89/22  
90/3 90/12 92/16 92/19 94/3 96/4  
102/9 102/19 103/10 107/23 108/10  
110/16 117/6 118/4 121/9 121/17  
123/20 131/15 133/9 133/11 134/13  
136/17 137/16 138/24 149/7 149/8  
149/21 150/11 150/23 158/18 158/24  
160/7  
questions [75] 9/15 9/25 10/11 18/9  
19/15 26/5 29/17 30/14 31/2 34/23  
36/11 46/9 49/22 52/15 55/16 56/17  
64/6 66/25 71/19 73/23 74/3 74/4  
78/16 78/24 79/3 79/10 81/24 82/18  
88/25 92/9 94/10 97/7 97/9 99/12  
99/24 100/20 100/20 101/10 107/8  
110/6 110/14 114/20 114/21 114/24  
115/12 117/7 117/19 117/25 118/2  
121/13 124/14 124/16 124/24 125/8  
125/19 129/2 132/9 133/6 134/15  
136/16 138/23 140/5 142/21 144/7  
144/15 147/11 148/8 150/18 153/4  
157/24 158/17 162/18 164/24 164/25  
168/1

quick [5] 35/15 71/21 84/20 114/13  
129/4  
quicker [1] 99/18  
quickly [3] 4/19 4/23 30/9  
quite [3] 24/6 30/10 70/7  
quote [12] 12/9 18/3 18/5 34/16 37/6  
37/8 50/16 50/18 50/19 50/22 50/23  
119/24  
quotes [2] 93/8 150/5  
quoting [1] 93/7

**R**  
raise [1] 18/6  
raised [17] 6/20 7/7 8/5 17/25 18/3  
18/5 18/19 22/10 44/12 80/4 80/4 81/1  
107/25 108/21 115/19 127/16 157/10  
raises [1] 58/7  
raspy [1] 54/8  
rate [1] 48/25  
rates [3] 48/24 146/18 159/22  
rather [2] 6/12 55/12  
ratio [3] 105/16 105/17 107/3  
ratios [5] 102/20 104/22 105/9 105/12  
108/11  
read [13] 13/14 34/5 35/10 38/24 68/6  
68/6 71/4 82/12 91/5 123/21 123/23  
160/8 160/10  
reading [2] 20/16 56/25  
ready [13] 10/22 28/2 52/21 73/24  
79/14 101/18 118/7 142/3 145/24  
146/14 146/25 154/19 165/4  
real [2] 107/10 107/15  
reality [2] 17/14 80/22  
realize [1] 35/7  
realized [3] 32/11 35/9 126/20  
really [23] 11/17 37/18 38/25 39/3  
39/12 47/24 47/25 56/1 57/12 61/6  
78/25 88/2 93/1 98/24 98/24 110/17  
110/19 121/25 129/22 130/12 130/16  
130/19 160/19  
reason [10] 42/15 57/14 61/24 97/24  
103/24 130/21 136/19 136/21 138/11  
152/7  
reasonable [2] 105/20 125/16  
reasonably [1] 157/4  
reasons [4] 13/24 23/21 81/7 146/4  
rebut [1] 157/2  
rebuttal [1] 10/10  
recall [5] 28/12 34/8 80/12 84/11  
102/11  
receive [1] 124/20  
received [3] 59/14 80/12 150/6  
receives [1] 129/7  
recess [2] 77/19 114/11  
recognize [3] 46/24 66/10 73/14  
recognized [2] 39/11 47/8  
recollection [1] 27/18  
recommend [2] 5/16 166/17  
recommendation [18] 5/20 6/8 6/16  
8/22 10/14 17/24 78/12 78/13 78/17  
79/5 81/25 95/11 97/1 98/10 167/15  
167/18 167/20 168/10  
recommendations [1] 96/24  
recommended [1] 16/24  
reconvene [1] 114/2  
record [34] 4/21 6/19 19/16 21/20 32/6  
41/21 47/8 68/18 80/22 81/13 82/13  
83/14 83/16 83/18 84/2 84/7 85/19  
85/23 87/19 92/2 92/11 97/24 98/8  
114/12 115/1 115/20 120/19 128/5

142/5 142/18 146/15 162/9 162/15  
169/10  
recording [1] 4/20  
records [2] 55/11 55/13  
recoup [1] 123/25  
redistrict [1] 132/17  
redistricted [1] 132/16  
redistricting [1] 133/18  
redo [3] 32/3 32/21 33/6  
redone [1] 32/23  
redraw [2] 132/24 133/2  
reducing [1] 108/14  
reduction [2] 137/15 138/20  
reemphasize [1] 14/17  
reevaluate [1] 34/3  
refer [1] 146/1  
referenced [2] 38/13 127/23  
referred [2] 41/3 41/4  
reflected [2] 120/19 129/24  
reflective [1] 84/18  
reflects [1] 115/1  
refresh [1] 77/16  
refused [1] 34/15  
regarding [7] 45/23 46/7 71/9 88/23  
105/9 145/21 149/9  
regards [2] 29/20 149/3  
Registered [1] 169/4  
reimbursement [1] 146/18  
reissue [1] 34/4  
reiterate [4] 8/3 103/12 120/18 146/9  
reiterated [1] 12/14  
rejected [3] 59/24 62/22 63/15  
related [6] 101/14 102/12 105/11  
106/12 111/1 163/10  
relates [9] 51/8 71/3 83/5 103/17  
108/11 121/4 141/16 141/23 146/7  
relating [1] 71/14  
relations [1] 64/11  
relationship [8] 64/21 67/14 73/17  
73/19 74/13 74/17 74/20 74/22  
relative [2] 169/11 169/13  
relevant [1] 63/1  
reliance [1] 159/6  
relies [1] 19/17  
rely [3] 28/25 78/24 160/16  
relying [2] 161/17 162/4  
remain [1] 128/21  
remaining [3] 9/21 9/23 78/9  
remains [2] 147/8 151/11  
remarkably [1] 22/20  
remarks [1] 10/19  
remember [1] 72/22  
remind [2] 22/5 78/11  
reminder [1] 7/18  
remove [3] 52/8 102/4 149/20  
removed [6] 102/1 103/4 103/7 134/23  
149/25 150/1  
removing [2] 56/4 148/3  
renegotiate [1] 133/18  
renew [1] 50/20  
renovate [1] 134/6  
repairs [1] 23/18  
repayment [2] 48/24 159/22  
repeat [6] 4/24 31/7 44/25 53/10  
112/18 114/8  
repeating [1] 143/13  
replaced [1] 151/23  
replete [1] 87/11  
reply [1] 36/18  
REPORTED [1] 1/15

<p>R</p> <p>reporter [9] 1/16 4/20 7/22 11/1 45/25 113/19 164/12 169/1 169/5</p> <p>represent [2] 16/1 19/7</p> <p>representations [1] 13/1</p> <p>representatives [5] 12/17 17/6 17/6 17/9 22/1</p> <p>represented [1] 14/21</p> <p>representing [2] 4/14 4/15</p> <p>request [2] 134/2 152/13</p> <p>requested [1] 119/13</p> <p>requests [3] 55/11 55/13 136/3</p> <p>require [6] 73/15 73/16 122/11 123/9 133/16 148/17</p> <p>required [25] 13/18 14/1 16/21 17/24 20/20 24/2 25/5 32/24 38/21 45/5 81/6 83/12 104/9 104/18 105/13 105/15 107/3 108/4 120/21 129/10 129/14 131/4 134/5 148/22 156/11</p> <p>requirement [8] 18/22 20/3 20/4 26/1 26/23 27/11 44/17 165/12</p> <p>requirements [22] 12/15 14/5 21/14 27/21 40/22 44/11 97/18 98/7 99/5 100/17 112/15 112/23 114/17 118/11 118/17 127/2 140/13 141/9 144/24 145/22 153/13 154/11</p> <p>requires [4] 23/12 105/17 107/21 109/4</p> <p>research [1] 149/22</p> <p>researching [1] 40/12</p> <p>reserves [1] 158/10</p> <p>residential [1] 135/3</p> <p>resolution [1] 69/11</p> <p>resolved [1] 8/8</p> <p>resource [1] 73/12</p> <p>resources [2] 61/24 155/1</p> <p>respect [1] 6/23</p> <p>respected [1] 25/9</p> <p>respectively [1] 162/14</p> <p>respond [18] 10/7 33/2 50/8 62/2 70/23 72/23 83/20 107/9 124/13 128/6 131/12 133/8 133/11 133/15 139/17 139/21 150/18 162/18</p> <p>responded [1] 83/1</p> <p>response [28] 36/6 42/14 46/5 79/17 81/16 81/19 105/5 105/8 113/4 114/5 114/23 115/21 118/23 124/5 124/23 126/7 130/13 140/7 140/19 144/16 145/7 153/5 153/21 154/23 165/2 165/21 166/4 166/25</p> <p>responses [4] 105/11 124/19 127/7 150/22</p> <p>responsibilities [2] 68/5 71/2</p> <p>responsibility [4] 35/24 80/9 81/4 129/8</p> <p>responsible [4] 37/17 112/1 130/8 157/5</p> <p>responsive [1] 73/2</p> <p>rest [5] 6/24 57/17 77/17 102/20 102/25</p> <p>restated [1] 22/11</p> <p>restituting [1] 80/3</p> <p>restore [1] 148/3</p> <p>resubmit [1] 141/24</p> <p>result [1] 20/12</p> <p>results [1] 13/24</p> <p>retain [1] 133/21</p> <p>retained [1] 125/7</p> <p>return [1] 114/8</p> <p>reverse [1] 136/18</p> <p>reversed [1] 14/5</p> <p>review [54] 5/14 5/17 5/19 5/23 6/11</p>	<p>6/12 6/15 11/22 15/7 17/20 17/21 18/13 18/14 21/3 25/11 46/22 76/13 78/21 80/22 81/4 81/11 82/6 82/11 82/16 82/21 83/11 83/12 88/5 90/20 90/23 91/8 92/5 92/5 93/3 93/8 93/13 93/14 93/22 93/23 95/8 96/18 98/11 98/16 103/15 104/1 106/5 111/12 121/1 128/1 139/3 139/13 154/24 155/1 160/3</p> <p>reviewed [8] 9/20 16/15 21/20 22/6 47/5 109/13 143/8 160/3</p> <p>reviewing [4] 16/13 92/25 94/16 115/10</p> <p>revolving [1] 159/20</p> <p>reweigh [4] 19/19 21/6 25/15 80/6</p> <p>rezoning [1] 132/21</p> <p>Rich [1] 99/5</p> <p>RICHARD [16] 2/4 4/1 45/13 77/3 77/7 100/5 113/11 119/1 126/12 140/22 145/10 154/3 161/6 161/22 165/24 167/5</p> <p>Richmond [1] 20/10</p> <p>ridership [1] 142/14</p> <p>right [96] 5/12 8/10 25/22 28/15 29/16 44/5 45/7 46/6 47/20 49/21 58/3 61/4 61/8 64/3 66/20 74/15 75/17 76/17 76/25 77/3 77/13 77/20 78/5 79/6 81/14 88/22 89/24 90/15 90/17 95/3 96/10 96/12 97/21 98/3 99/20 99/20 100/11 100/15 100/24 101/4 103/1 107/17 111/11 112/1 112/18 113/5 113/15 113/17 114/6 117/12 117/25 118/6 118/14 118/20 118/24 119/9 121/13 125/18 126/2 126/5 126/8 126/18 128/2 129/1 130/10 134/12 135/10 140/15 140/20 141/7 142/2 142/19 143/17 144/17 145/2 145/8 145/20 149/23 150/11 151/24 153/6 155/18 158/15 161/13 164/3 164/13 165/3 165/8 165/15 165/22 166/11 166/13 167/1 167/11 168/10 168/13</p> <p>rigorous [4] 22/8 25/11 81/10 86/4</p> <p>robust [3] 110/25 143/7 143/21</p> <p>role [5] 6/14 34/13 66/11 68/4 79/2</p> <p>roles [3] 52/8 68/3 71/2</p> <p>roll [14] 3/23 45/12 77/4 100/2 113/6 118/25 124/3 124/22 126/9 140/21 145/9 153/23 165/23 167/2</p> <p>rolled [1] 122/18</p> <p>rollout [2] 119/23 124/17</p> <p>roofing [1] 23/19</p> <p>room [2] 1/14 7/19</p> <p>route [1] 58/24</p> <p>routes [1] 142/13</p> <p>RPR [2] 1/15 169/20</p> <p>rule [82] 11/25 12/22 12/22 13/4 13/18 14/1 15/3 15/5 15/11 15/14 15/15 15/16 15/17 15/17 15/20 15/21 15/22 15/25 17/23 26/17 26/24 27/9 27/13 28/21 28/22 28/24 28/25 29/2 29/14 30/8 30/11 31/18 32/9 32/11 33/4 33/8 33/15 35/3 35/13 35/19 36/22 36/23 36/23 37/8 37/13 37/16 38/4 38/6 38/6 38/13 38/17 38/20 38/24 38/25 39/3 39/14 39/24 41/3 41/4 42/1 42/4 42/5 42/5 42/24 43/4 43/6 43/9 43/10 61/3 81/6 96/17 96/22 96/25 97/20 112/17 112/24 118/13 126/1 140/14 145/1 153/15 165/14</p> <p>rules [16] 13/14 14/10 15/8 15/9 15/10 27/1 35/5 35/11 37/7 38/18 39/16</p>	<p>39/25 60/18 63/1 67/11 115/15</p> <p>run [11] 47/21 48/4 48/5 51/16 57/25 75/15 109/25 137/2 137/21 137/24 157/5</p> <p>running [5] 33/25 52/4 65/4 65/5 137/17</p> <p>runs [1] 62/13</p> <p>rural [2] 55/19 55/20</p> <hr/> <p>S</p> <p>SAC [1] 61/13</p> <p>safe [2] 157/18 160/5</p> <p>said [38] 12/8 14/7 15/3 15/3 20/7 20/18 20/18 20/19 27/5 35/2 38/14 39/23 42/20 43/13 43/21 55/2 55/8 60/4 60/11 61/4 70/8 73/3 79/6 86/8 91/25 109/11 110/9 110/17 111/24 115/7 116/7 117/9 120/4 120/20 129/23 147/22 154/22 157/19</p> <p>sailed [1] 83/23</p> <p>sake [3] 31/25 83/9 141/18</p> <p>salaries [2] 160/13 163/19</p> <p>salary [4] 160/21 161/1 161/3 162/22</p> <p>sales [5] 59/7 59/14 59/22 62/23 135/12</p> <p>salvage [1] 137/22</p> <p>same [20] 9/3 9/17 18/25 19/20 20/18 40/20 41/2 41/11 42/10 54/4 64/24 66/10 82/3 82/12 91/5 111/24 117/15 118/4 134/9 163/20</p> <p>sat [1] 115/15</p> <p>satisfied [1] 22/4</p> <p>satisfying [1] 20/2</p> <p>saw [6] 32/18 57/1 59/9 133/7 159/7 161/20</p> <p>say [31] 7/21 10/2 20/17 27/6 30/8 37/5 38/11 42/14 43/8 50/2 70/8 79/12 84/10 85/25 86/24 88/13 94/20 102/5 108/23 109/16 109/18 111/17 123/8 124/15 136/18 137/12 144/1 147/16 161/2 161/23 164/20</p> <p>saying [8] 6/10 32/8 59/12 88/10 88/10 116/14 120/14 144/9</p> <p>says [24] 14/10 22/24 26/25 27/7 27/13 30/2 30/4 35/4 35/11 44/4 50/14 52/11 65/24 66/10 75/23 85/4 85/15 85/17 87/17 90/23 91/2 92/23 96/19 96/25</p> <p>scenario [2] 121/3 131/6</p> <p>scenarios [1] 110/12</p> <p>schedule [6] 106/9 106/11 106/11 106/14 106/15 106/16</p> <p>scheduling [1] 106/12</p> <p>school [297]</p> <p>school's [3] 134/10 138/19 150/2</p> <p>school-wide [1] 121/24</p> <p>schools [20] 3/20 4/16 23/4 24/19 40/11 48/12 48/18 49/6 49/13 54/3 58/20 64/12 64/13 64/15 67/4 85/8 86/3 149/11 151/3 151/4</p> <p>SCOTT [8] 2/3 4/5 30/16 34/25 35/8 45/19 77/11 125/4</p> <p>Searby [2] 54/15 54/23</p> <p>second [41] 9/6 16/7 19/12 36/25 44/22 44/23 44/24 45/11 71/7 77/1 77/2 77/3 97/22 97/23 98/1 98/2 98/3 98/19 99/1 100/13 112/25 113/1 113/2 115/17 118/18 118/19 118/20 121/10 126/3 126/4 126/6 140/16 140/17 141/13 145/3 145/4 153/17 153/18 153/19 165/16 166/21</p>
---	---	---

<p>S</p> <p>secondly [2] 29/6 116/13</p> <p>seconds [3] 119/14 126/22 154/14</p> <p>section [48] 57/6 57/7 85/2 85/2 87/12 87/12 89/1 89/3 90/25 91/4 96/19 96/23 96/24 97/11 97/18 98/6 98/14 99/4 100/16 100/24 101/1 104/6 104/7 110/4 110/5 112/9 112/14 112/22 114/17 114/21 117/23 118/11 118/17 119/12 121/15 124/9 125/21 125/25 126/21 127/1 129/3 129/20 139/1 140/12 144/23 144/24 145/21 153/12</p> <p>sections [3] 84/25 88/19 122/17</p> <p>secured [2] 159/23 160/19</p> <p>see [28] 9/10 21/12 29/3 29/20 29/21 43/12 52/25 70/18 74/16 74/22 76/9 78/10 87/10 87/11 90/8 105/12 105/13 105/17 110/25 143/4 143/5 143/23 143/25 144/3 153/3 164/6 164/10 164/17</p> <p>SEED [1] 123/6</p> <p>seeing [3] 21/11 34/8 90/15</p> <p>seeking [1] 38/11</p> <p>seem [2] 51/21 74/19</p> <p>seemed [3] 40/20 41/1 42/11</p> <p>seems [6] 31/12 47/2 50/1 54/25 111/16 156/25</p> <p>seen [4] 28/12 54/2 86/14 157/5</p> <p>self [2] 101/25 156/19</p> <p>self-contained [1] 101/25</p> <p>selling [2] 123/24 160/11</p> <p>sense [4] 20/16 27/4 36/1 55/19</p> <p>sent [2] 36/15 38/10</p> <p>sentence [3] 81/9 81/16 122/7</p> <p>sentiments [1] 124/16</p> <p>separate [5] 38/5 47/10 48/3 50/11 125/5</p> <p>separates [1] 109/21</p> <p>September [2] 167/23 169/16</p> <p>September 24th [1] 167/23</p> <p>series [2] 53/22 162/18</p> <p>serve [4] 56/10 116/22 146/25 147/19</p> <p>served [2] 13/11 106/20</p> <p>service [26] 9/9 17/11 51/20 52/1 52/1 52/13 71/23 71/25 72/18 73/16 109/11 145/21 146/7 146/16 146/19 146/20 146/23 148/15 149/3 150/8 152/16 152/23 153/7 153/12 155/21 158/4</p> <p>services [15] 49/1 50/5 56/21 64/17 65/21 71/6 71/24 106/17 106/25 112/4 116/8 116/9 116/10 139/6 139/16</p> <p>serving [2] 66/8 106/4</p> <p>set [16] 26/23 39/3 60/10 67/5 71/6 72/8 97/19 112/15 112/23 118/12 125/25 140/13 142/6 144/25 153/14 165/13</p> <p>set-aside [1] 71/6</p> <p>seven [2] 39/1 116/1</p> <p>SFS [4] 21/18 23/6 72/13 120/6</p> <p>shall [2] 14/7 50/15</p> <p>Shannon [1] 21/18</p> <p>share [1] 93/15</p> <p>shared [2] 59/21 94/16</p> <p>Shawn [4] 19/5 32/2 34/12 68/13</p> <p>she [3] 3/19 4/21 34/15</p> <p>She's [1] 4/20</p> <p>Sherry [1] 21/18</p> <p>shifting [2] 55/6 55/6</p> <p>shifts [1] 136/20</p> <p>ship [1] 83/23</p>	<p>shoes [1] 18/25</p> <p>short [9] 30/1 70/25 71/11 113/18 114/7 141/12 160/4 167/17 167/25</p> <p>shorthand [1] 169/7</p> <p>shortly [1] 147/6</p> <p>should [22] 6/11 14/6 15/7 15/8 21/10 28/9 29/14 44/9 49/18 84/4 84/18 87/10 89/8 89/10 89/20 90/13 101/16 111/18 117/19 133/9 146/12 164/8</p> <p>shoulder [3] 136/13 136/14 157/14</p> <p>shouldn't [2] 8/19 87/7</p> <p>show [1] 164/3</p> <p>showed [2] 127/11 161/13</p> <p>showing [1] 161/10</p> <p>shows [3] 22/18 149/4 150/8</p> <p>shut [1] 137/2</p> <p>side [14] 9/13 34/6 51/23 56/10 56/12 67/18 67/25 99/10 99/15 101/11 135/4 135/5 137/5 158/14</p> <p>sides [5] 6/10 21/23 42/19 124/4 136/19</p> <p>sign [1] 110/24</p> <p>signed [1] 22/24</p> <p>significant [5] 16/12 21/25 135/5 154/24 154/25</p> <p>significantly [4] 63/21 108/25 143/3 143/25</p> <p>similar [1] 74/15</p> <p>simply [5] 15/22 22/9 22/18 34/14 156/15</p> <p>since [10] 8/16 9/19 10/8 37/9 41/15 48/6 129/7 135/3 139/23 159/19</p> <p>single [10] 16/20 27/17 43/17 44/1 81/16 93/20 107/23 109/14 109/15 157/16</p> <p>single-spaced [1] 16/20</p> <p>sir [1] 11/2</p> <p>sit [1] 75/7</p> <p>sits [1] 75/8</p> <p>sitting [1] 151/18</p> <p>situation [7] 4/11 35/20 52/25 90/18 111/4 137/1 151/2</p> <p>situations [1] 86/12</p> <p>six [5] 135/1 148/25 159/3 159/7 159/8</p> <p>six-month [1] 148/25</p> <p>size [3] 105/12 127/19 137/15</p> <p>skipping [1] 100/14</p> <p>slight [1] 153/3</p> <p>sliver [2] 72/12 72/20</p> <p>slowly [2] 122/24 124/3</p> <p>small [3] 55/1 64/15 72/20</p> <p>smaller [2] 58/22 105/17</p> <p>so [251]</p> <p>social [1] 13/20</p> <p>solely [3] 95/16 102/19 131/24</p> <p>some [34] 4/17 33/13 47/11 56/12 56/21 56/21 57/5 59/16 60/11 63/22 64/14 68/2 71/4 74/8 74/9 84/14 91/12 91/13 91/16 94/15 101/10 102/13 105/8 105/10 107/18 111/13 113/22 132/23 133/3 136/22 137/22 138/11 149/11 163/11</p> <p>somebody [1] 50/5</p> <p>someone [5] 101/17 133/7 144/18 159/11 166/14</p> <p>someone's [1] 165/4</p> <p>something [25] 4/8 22/12 23/8 28/5 37/20 42/16 43/5 49/15 68/10 72/3 72/17 74/18 74/19 93/21 94/11 94/25 102/2 102/9 105/15 105/16 107/5</p>	<p>107/11 107/15 111/7 115/13</p> <p>sometime [1] 80/13</p> <p>somewhere [3] 161/15 161/21 162/2</p> <p>sooner [1] 36/14</p> <p>sorry [16] 26/8 36/5 38/1 42/23 54/8 55/17 73/25 74/2 80/13 91/14 96/9 98/22 99/22 137/10 165/10 166/6</p> <p>sort [5] 133/18 134/4 138/20 139/17 155/22</p> <p>sound [3] 80/21 88/16 158/22</p> <p>sounds [3] 52/9 52/10 81/12</p> <p>source [1] 24/5</p> <p>Sources [1] 158/25</p> <p>south [1] 56/10</p> <p>southwest [1] 56/11</p> <p>space [1] 121/7</p> <p>spaced [1] 16/20</p> <p>speak [15] 4/22 4/23 7/20 22/2 30/19 75/17 77/24 77/25 78/4 95/24 96/13 101/17 159/11 161/1 164/11</p> <p>speaking [1] 4/19</p> <p>special [1] 24/3</p> <p>specialized [7] 24/1 103/20 104/3 104/8 108/1 108/4 109/5</p> <p>specific [6] 8/25 17/24 81/7 97/4 151/19 163/3</p> <p>specifically [7] 70/3 70/18 75/22 107/25 110/4 155/4 155/10</p> <p>specifics [1] 155/20</p> <p>speculation [3] 109/23 110/7 110/19</p> <p>speculative [2] 110/12 120/5</p> <p>spend [1] 131/7</p> <p>spent [2] 16/12 162/6</p> <p>splash [1] 54/13</p> <p>sponsor [8] 13/2 16/13 17/25 19/1 20/23 20/24 48/19 97/5</p> <p>sponsored [1] 74/17</p> <p>sponsoring [1] 129/13</p> <p>SRO [2] 74/9 163/6</p> <p>staff [18] 10/14 13/14 17/4 50/21 66/19 66/19 66/20 78/16 105/20 107/1 109/10 116/11 122/13 123/2 137/7 139/19 167/14 167/17</p> <p>staff's [1] 146/5</p> <p>staffing [2] 104/22 107/3</p> <p>stance [1] 56/2</p> <p>stand [4] 7/20 49/12 120/23 159/5</p> <p>standard [16] 9/2 12/15 20/9 21/3 22/4 28/16 71/5 78/23 86/4 88/3 90/13 91/8 91/17 119/13 155/6 155/8</p> <p>standards [19] 16/25 25/12 86/1 86/7 87/1 88/19 97/19 98/13 112/15 112/23 114/18 118/12 125/25 127/3 140/13 144/25 146/8 153/14 165/13</p> <p>standing [5] 41/13 42/15 71/11 150/20 151/24</p> <p>standpoint [2] 33/23 89/6</p> <p>stands [3] 18/24 85/9 87/21</p> <p>star [2] 17/11 51/19</p> <p>start [9] 4/22 10/19 39/8 53/17 54/5 54/10 78/10 79/11 123/4</p> <p>started [10] 3/3 53/20 54/12 55/10 63/3 72/23 72/23 77/20 120/14 122/7</p> <p>starting [2] 50/5 131/19</p> <p>starts [3] 128/23 157/8 160/1</p> <p>startup [2] 147/4 162/16</p> <p>state [39] 1/17 6/7 6/14 6/16 10/15 12/21 14/1 14/11 17/18 24/21 27/1 27/3 27/13 29/20 29/23 35/24 36/4 37/7 38/13 38/17 38/20 41/25 42/4</p>
---	--	--

S

state... [16] 45/6 46/20 60/18 78/14  
79/5 85/23 93/9 95/10 106/22 135/18  
153/13 166/18 167/21 167/23 168/1  
169/2

stated [8] 15/15 20/9 30/3 96/7 105/9  
120/7 122/17 136/6

statement [2] 11/17 22/14

statements [2] 19/18 21/1

states [4] 22/20 24/2 29/21 159/25

stating [1] 34/7

statue [1] 26/24

statute [71] 11/24 14/7 14/9 14/15 15/5  
15/25 19/23 20/16 22/23 23/4 23/12  
26/16 26/25 27/12 28/16 28/20 28/20  
29/3 29/7 29/11 29/20 29/23 30/2 30/4  
30/11 30/12 31/17 32/10 32/18 32/19  
34/14 34/18 35/2 35/4 35/10 35/10  
35/20 35/24 36/2 36/4 37/5 37/15  
37/17 38/5 38/7 38/22 39/23 41/4 43/9  
43/25 44/4 44/11 45/6 60/18 62/6 63/2  
85/4 85/15 86/10 90/23 91/1 91/4 93/6  
93/8 118/11 131/4 133/15 133/24  
141/9 145/22 153/13

statutes [3] 26/2 37/1 39/13

statutes' [1] 20/3

statutorily [1] 33/4

statutory [2] 32/24 114/17

stay [6] 110/6 124/1 128/23 133/3  
152/8 157/12

STEAM [6] 119/22 121/5 121/19 124/6  
124/17 124/22

STEM [1] 57/1

step [1] 31/10

steps [1] 36/9

sticks [1] 54/20

still [19] 15/19 41/13 56/19 57/16 62/8  
108/21 111/12 112/1 122/3 131/8  
134/22 137/4 138/7 138/13 148/21  
149/14 151/4 152/7 168/4

stipulated [1] 29/13

stop [2] 4/24 95/22

stopped [1] 122/9

straight [1] 6/7

street [2] 1/13 65/10

strength [2] 24/25 75/13

strengths [1] 98/17

strictly [1] 96/6

strike [1] 167/15

structured [1] 136/21

struggling [1] 166/8

student [25] 9/5 23/2 47/21 51/10  
51/13 61/8 88/23 97/10 97/17 98/5  
99/3 100/16 100/24 100/25 101/14  
104/22 107/1 107/21 112/8 112/14  
112/22 132/24 142/14 143/4 152/25

student's [3] 104/4 104/7 105/15

students [23] 9/6 24/3 56/8 60/22 60/22  
66/1 89/14 101/9 103/21 104/12 106/4  
106/20 108/2 108/12 108/13 108/17  
110/22 121/7 121/9 127/12 127/14  
132/17 133/23

students' [3] 103/20 105/13 106/1

stuff [4] 148/6 149/4 158/13 164/3

SUBIA [3] 1/15 169/4 169/20

submit [5] 97/1 132/1 141/20 146/10  
155/12

submits [1] 18/14

submitted [22] 5/13 11/14 12/4 13/2  
16/8 16/11 16/21 17/20 20/22 20/24

20/25 41/21 69/10 82/14 83/2 127/25  
128/1 146/2 146/6 155/2 166/16  
166/19

submitting [1] 18/1

subsection [7] 20/19 23/3 23/12 63/2  
96/18 96/19 96/25

subsequent [1] 68/16

substantial [34] 18/16 19/14 21/4 21/12  
23/9 24/13 25/8 83/13 84/3 85/20  
85/24 86/25 88/1 88/6 88/14 91/10  
92/13 97/16 98/5 99/3 110/1 110/12  
112/13 112/21 116/25 118/9 118/15  
125/23 140/11 144/22 153/11 155/16  
165/10 165/11

substantive [3] 124/23 154/9 154/10

substitute [5] 21/7 21/10 25/16 156/6  
156/11

substitutes [2] 119/25 123/10

succeeded [1] 25/5

such [13] 23/19 24/17 48/10 49/10  
58/20 64/13 72/20 83/7 92/24 105/15  
107/4 135/2 151/10

sufficient [7] 108/9 115/9 120/4 120/10  
124/19 158/8 158/10

suggest [2] 51/21 81/10

suggesting [1] 50/11

suggests [1] 51/4

summarily [2] 83/3 84/22

summarize [1] 26/4

summarized [2] 18/2 23/15

summary [6] 17/20 70/1 70/13 81/17  
82/6 97/2

superintendent [1] 59/17

supervision [2] 105/22 169/8

Supervisor [7] 13/10 27/20 32/14 33/23  
34/2 34/9 41/6

supplies [1] 116/10

support [23] 12/11 14/8 25/2 25/3 26/1  
30/6 44/18 45/5 58/6 58/11 63/10  
66/19 74/9 75/1 75/12 91/10 105/21  
108/15 116/18 122/13 123/11 155/16  
161/18

supported [4] 18/15 25/7 66/3 81/12

supporting [2] 76/6 159/8

supportive [3] 144/9 144/10 144/11

supports [1] 19/16

supposed [7] 15/4 22/12 37/13 37/20  
37/21 42/18 42/21

sure [48] 7/6 7/20 8/20 10/23 30/1 33/3  
35/1 35/25 36/8 36/19 38/9 41/12  
51/11 52/19 54/20 55/8 57/1 61/18  
78/3 79/2 79/23 80/1 95/7 100/13  
102/4 107/20 114/25 115/23 115/24  
116/14 119/17 124/22 127/6 129/5  
130/8 131/14 134/21 136/7 137/25  
140/3 150/20 152/10 152/15 159/7  
160/8 163/1 163/20 168/11

surplus [5] 138/12 149/5 151/25  
152/12 152/13

surplused [1] 152/5

surrounding [1] 66/7

SWEENEY [2] 2/3 4/5

SWEENEY-SCOTT [2] 2/3 4/5

system [6] 23/3 23/23 65/4 65/5 136/4  
148/1

T

table [3] 31/7 54/11 96/2

tabulated [1] 13/15

tailor [1] 7/1

take [28] 5/5 7/5 10/15 36/7 48/16  
77/15 82/2 87/22 92/1 92/6 92/7 92/14  
93/10 96/10 99/8 100/12 113/17 114/7  
117/3 119/20 136/10 149/21 150/12  
156/13 158/8 162/24 166/13 168/3

taken [8] 14/24 15/9 15/22 26/18 62/23  
77/19 114/11 169/6

takes [1] 15/2

taking [6] 60/2 83/25 107/10 148/14  
156/15 156/16

talk [5] 36/22 63/3 77/17 79/23 143/10

talked [2] 64/24 155/20

talking [6] 37/9 72/20 110/5 121/3  
127/18 162/20

talks [2] 38/25 39/1

Tallahassee [2] 1/14 46/20

tallied [1] 13/22

tapping [1] 40/12

tax [4] 59/7 59/22 62/23 135/12

teacher [7] 19/10 25/5 125/13 143/18  
143/19 162/22 163/19

teacher's [1] 123/18

teachers [29] 12/10 13/3 13/5 13/16  
14/2 14/9 16/5 19/25 20/2 26/1 30/7  
30/23 33/18 33/20 41/18 42/13 44/18  
45/5 58/7 105/23 108/15 116/18  
124/20 156/6 156/9 156/11 160/22  
161/10 161/14

teaches [1] 30/25

team [7] 21/17 21/18 66/18 120/6  
139/2 139/11 139/14

technical [1] 116/9

telephonically [1] 43/16

tell [1] 71/10

tells [1] 164/13

ten [8] 8/13 10/2 10/20 19/2 27/16  
141/23 146/3 146/9

ten-minute [1] 27/16

tend [1] 58/21

term [1] 74/15

terminate [5] 50/20 50/24 64/18 72/5  
73/17

terminated [4] 52/2 52/12 71/25 73/20

termination [1] 51/7

terms [14] 7/11 8/5 36/25 40/21 57/17  
84/24 85/13 85/14 89/8 89/10 101/13  
116/6 124/17 159/22

Terry [5] 8/1 11/4 33/5 103/11 107/16

than [23] 6/12 12/23 17/16 20/14 27/6  
27/7 27/14 33/8 51/22 63/11 63/20  
63/21 65/5 73/4 86/11 89/11 137/18  
143/3 143/25 154/14 158/21 159/9  
160/13

thank [95] 3/3 3/12 4/7 7/17 7/25 8/8  
11/3 19/1 25/20 25/22 26/10 27/25  
28/1 29/14 29/15 30/13 34/22 35/8  
35/21 37/22 44/20 48/9 50/7 53/13  
53/19 56/16 58/25 61/25 62/1 65/15  
66/24 67/9 68/13 73/22 76/16 77/13  
79/15 84/22 88/20 88/22 92/17 97/6  
100/11 101/20 104/1 104/5 107/6  
107/14 113/15 114/6 114/13 117/2  
117/24 119/9 119/15 120/11 120/13  
121/11 121/12 124/24 126/18 127/4  
128/2 128/25 129/1 129/11 133/14  
134/14 141/5 141/15 142/2 142/19  
143/9 144/6 144/14 144/20 145/18  
145/25 146/13 147/9 147/10 153/16  
154/7 154/20 155/18 157/22 157/23  
158/15 162/9 164/2 166/11 166/21

<p>T</p> <p>thank... [3] 166/23 167/11 168/13</p> <p>Thanksgiving [1] 80/15</p> <p>that [1003]</p> <p>that's [101] 6/24 24/12 24/13 26/9 26/20 28/16 35/14 38/19 39/3 39/18 39/25 39/25 41/8 42/10 46/16 46/25 47/2 49/1 51/23 58/1 58/3 58/8 58/12 64/2 65/11 65/20 66/12 68/10 69/3 69/4 71/16 72/3 74/1 74/24 76/11 76/14 78/25 83/16 84/4 86/5 86/23 88/2 88/11 88/13 89/22 91/2 93/7 94/10 94/19 94/21 100/22 103/5 103/6 104/17 106/14 106/21 107/23 109/6 109/7 109/21 109/22 111/8 111/13 111/19 112/3 114/2 119/19 121/10 121/21 122/16 123/14 124/23 125/14 125/16 127/20 130/7 132/1 135/10 135/19 137/16 139/17 143/18 143/24 148/2 148/5 148/22 152/1 152/7 156/11 157/5 157/10 157/13 159/17 160/19 161/9 162/12 163/25 164/5 165/7 166/7 168/4</p> <p>their [37] 8/13 12/4 16/2 17/10 23/5 23/8 23/13 24/3 28/8 35/16 49/7 58/3 58/9 60/4 60/6 62/25 64/3 64/4 80/16 80/17 80/23 82/1 87/8 87/15 88/3 88/7 88/15 93/23 96/7 99/15 108/18 110/11 116/15 119/20 135/22 144/5 167/25</p> <p>them [44] 9/21 24/7 24/20 42/18 42/21 43/22 50/17 50/24 58/7 63/3 63/4 64/17 64/19 65/8 65/9 65/10 65/12 67/14 80/17 82/1 82/10 83/25 93/21 93/25 94/24 95/7 95/12 99/13 109/13 110/7 116/5 117/1 123/25 123/25 124/2 130/14 135/18 136/11 139/23 148/3 150/12 155/15 155/25 158/3</p> <p>themselves [2] 112/5 116/24</p> <p>then [73] 5/19 8/17 8/25 9/7 9/8 9/8 9/9 9/9 9/14 9/16 9/24 9/25 10/4 10/13 12/21 18/7 19/12 26/5 33/10 34/3 39/13 43/5 43/22 46/9 48/17 50/17 50/19 50/23 51/6 51/10 51/17 52/7 52/23 59/12 59/17 60/11 63/23 68/7 68/25 71/25 77/16 78/25 79/9 81/19 81/23 84/20 87/2 92/9 96/23 98/23 102/13 105/10 107/22 113/23 115/10 116/13 122/11 125/13 126/23 133/11 143/11 144/4 144/18 146/18 156/17 157/7 158/4 158/24 159/19 161/16 162/3 162/12 167/19</p> <p>there [214]</p> <p>there's [73] 5/7 7/19 18/22 21/12 23/1 24/10 28/9 32/22 33/16 33/17 33/17 36/21 39/13 47/15 47/17 47/19 48/3 49/9 49/18 50/8 51/2 51/4 51/8 53/1 55/21 56/8 62/7 62/14 65/5 65/13 67/10 67/11 69/2 70/12 71/5 73/17 75/1 76/10 85/9 85/15 85/16 85/20 87/5 87/17 88/1 93/19 95/1 95/4 104/17 105/8 106/23 108/2 109/5 110/5 112/6 114/1 122/25 123/16 124/6 124/10 124/19 124/21 125/18 127/15 135/3 135/18 157/7 157/19 159/6 160/5 162/1 163/4 163/12</p> <p>thereafter [1] 169/7</p> <p>therefore [7] 25/17 35/14 35/20 63/6 109/23 120/2 128/24</p> <p>therein [1] 169/6</p> <p>these [23] 8/23 12/14 19/14 39/17</p>	<p>39/24 40/14 47/12 57/24 63/5 63/12 75/9 83/24 84/25 86/3 117/1 117/18 130/25 131/5 134/14 137/2 149/3 155/12 156/14</p> <p>they [174]</p> <p>they're [25] 43/24 48/24 52/3 52/13 76/9 87/14 88/9 88/10 88/16 93/17 93/25 94/16 101/18 104/22 106/3 123/3 130/19 131/3 136/3 139/24 147/18 151/4 152/22 152/25 161/11</p> <p>thing [9] 19/20 24/17 48/10 49/10 55/17 64/25 65/9 109/15 113/20</p> <p>things [34] 16/2 22/17 22/17 25/3 39/9 39/17 59/23 62/4 62/18 63/5 63/12 65/3 65/6 72/12 72/21 74/10 78/22 85/2 85/17 86/14 86/16 86/17 86/21 92/13 94/4 101/24 108/25 109/3 112/2 125/6 136/9 139/18 148/4 155/21</p> <p>think [89] 7/7 9/22 11/20 21/4 26/10 27/9 28/8 29/18 30/17 32/22 33/7 34/17 37/2 37/13 38/15 38/16 38/19 38/24 39/10 39/15 41/21 46/15 46/19 47/23 48/8 50/9 51/24 56/20 61/11 63/18 65/16 68/17 70/21 70/24 71/21 72/25 73/1 74/6 74/9 79/6 80/3 83/9 84/17 87/5 87/16 88/17 90/12 90/17 91/22 92/12 93/7 93/22 94/23 95/22 96/16 101/4 102/5 103/3 103/9 103/10 104/21 107/4 107/7 111/13 113/22 122/8 129/23 130/4 134/19 134/25 135/21 136/2 136/11 136/13 137/16 139/14 147/22 149/22 149/24 150/7 150/10 152/23 158/12 159/2 160/8 161/20 164/5 165/6 168/6</p> <p>thinking [1] 5/10</p> <p>third [4] 9/7 142/14 146/24 150/4</p> <p>third-party [2] 146/24 150/4</p> <p>this [228]</p> <p>thorough [4] 6/19 21/21 95/7 157/19</p> <p>thoroughly [1] 18/17</p> <p>those [70] 8/7 8/22 9/3 9/22 10/11 13/14 16/25 17/5 41/24 50/5 58/11 59/23 70/2 78/11 78/22 79/13 80/19 80/23 80/24 81/17 81/21 83/8 83/18 83/20 83/21 85/16 85/17 86/14 86/19 86/22 87/3 87/12 92/13 93/4 93/15 94/20 95/8 97/7 103/22 104/12 106/8 106/17 106/25 108/7 109/11 111/1 115/25 116/8 123/24 124/13 124/20 130/18 134/8 138/12 138/13 139/18 139/25 141/25 146/11 147/24 148/4 148/22 150/5 150/18 156/17 156/19 157/4 157/10 163/15</p> <p>though [6] 9/19 31/17 41/1 131/2 131/8 151/4</p> <p>thought [7] 58/6 61/1 94/14 99/14 115/8 132/16 161/23</p> <p>thoughts [1] 80/17</p> <p>three [13] 9/13 10/3 26/3 40/11 46/8 46/15 105/16 130/16 133/16 154/16 154/17 154/17 162/14</p> <p>three-to-one [1] 105/16</p> <p>threshold [13] 12/25 25/6 26/1 26/15 29/12 31/15 31/16 39/23 42/10 44/10 44/17 45/4 63/22</p> <p>thresholds [1] 40/15</p> <p>threw [1] 32/15</p> <p>through [54] 5/4 5/11 6/1 7/4 8/12 9/11 10/5 10/9 15/11 21/21 23/5 33/4 36/23 36/24 41/16 42/5 49/25 55/11 55/12</p>	<p>56/25 61/10 75/18 78/6 79/8 80/2 80/24 82/2 82/8 82/15 83/6 83/8 83/18 83/24 86/4 87/23 88/19 98/16 99/18 102/20 104/14 109/1 109/8 109/20 109/25 114/3 139/11 143/23 146/11 155/4 158/1 158/13 159/9 162/21 169/9</p> <p>throughout [4] 24/20 27/16 40/22 106/21</p> <p>tie [1] 4/16</p> <p>TIFFANIE [31] 2/6 4/3 40/3 45/8 45/17 53/7 77/9 78/1 79/19 98/25 100/7 101/5 101/18 111/23 112/19 113/13 118/2 119/5 121/16 122/3 126/14 133/5 134/12 136/15 141/1 145/14 154/5 161/5 166/3 166/5 167/7</p> <p>time [62] 1/12 4/22 8/8 8/15 8/20 13/5 13/7 13/25 15/2 15/21 16/12 16/21 19/23 21/25 22/15 26/18 27/3 30/8 32/10 32/24 37/8 39/2 43/1 69/21 70/5 71/9 77/15 77/23 79/24 82/2 82/3 82/4 83/10 83/22 97/8 104/1 108/3 108/18 108/21 114/9 115/23 116/3 117/14 117/16 120/2 120/7 120/25 122/22 122/24 123/5 123/9 123/13 127/12 136/12 141/11 154/25 154/25 156/10 160/1 162/24 167/25 169/6</p> <p>timeline [1] 31/20</p> <p>timely [1] 11/15</p> <p>timer [3] 10/21 79/14 91/14</p> <p>times [7] 24/9 67/6 94/13 127/23 128/14 154/22 156/7</p> <p>Tina [5] 11/6 54/6 58/25 132/19 137/6</p> <p>Title [2] 125/2 125/5</p> <p>today [51] 3/6 4/20 5/4 6/2 6/6 7/5 7/8 8/12 8/22 9/11 10/13 10/17 11/19 15/6 19/9 21/3 23/20 24/15 25/16 28/7 28/17 29/14 30/3 36/10 41/13 42/15 48/17 49/12 62/19 68/18 71/17 76/14 80/18 80/25 83/5 83/18 84/2 85/2 85/22 86/23 86/24 87/9 88/10 88/16 90/15 115/2 117/20 127/15 138/1 141/21 155/11</p> <p>today's [3] 3/7 7/1 20/1</p> <p>together [10] 21/22 54/4 55/2 62/24 87/9 120/6 132/7 139/15 139/17 139/20</p> <p>token [1] 111/25</p> <p>told [1] 135/24</p> <p>tons [1] 109/13</p> <p>too [7] 4/19 4/23 33/10 81/2 81/3 131/16 156/25</p> <p>took [9] 12/16 13/7 14/19 15/3 17/19 56/2 98/11 99/21 136/1</p> <p>top [6] 79/6 129/24 157/7 157/10 157/13 164/21</p> <p>topic [1] 143/20</p> <p>total [5] 9/23 10/4 17/22 46/15 102/20</p> <p>totality [4] 155/25 156/20 157/17 158/7</p> <p>totally [2] 57/21 103/2</p> <p>tout [1] 23/20</p> <p>towards [2] 120/3 130/17</p> <p>training [10] 116/11 116/12 119/22 120/1 123/7 123/15 123/17 124/11 139/23 139/25</p> <p>transcript [8] 18/12 46/20 78/20 78/21 82/13 82/21 94/17 143/22</p> <p>transferred [1] 147/24</p> <p>transformation [1] 123/2</p> <p>transition [2] 123/5 124/8</p>
--	---	--

T  
translated [1] 169/8  
transmitted [1] 12/8  
transparency [1] 32/1  
transportation [28] 9/9 24/1 24/3 24/9  
84/14 103/21 104/3 104/8 104/13  
104/19 107/22 108/2 108/4 109/5  
139/1 139/6 141/8 141/18 141/23  
142/6 142/16 143/3 143/24 144/2  
144/4 144/23 158/5 158/14  
traveling [1] 123/10  
trials [1] 143/11  
tricky [1] 105/25  
tried [1] 61/23  
trip [1] 3/10  
trouble [2] 64/20 98/22  
true [4] 55/9 117/2 127/20 169/9  
truly [3] 48/3 51/15 84/21  
try [9] 10/6 59/18 73/1 75/17 78/6 78/7  
79/23 92/21 137/12  
trying [8] 36/3 59/23 114/3 115/22  
133/2 150/21 161/7 164/10  
turn [4] 10/17 110/2 110/11 137/19  
two [24] 4/14 4/15 10/3 19/9 36/7 36/11  
37/10 47/17 74/10 78/6 85/22 92/13  
107/8 115/19 116/4 116/6 117/2  
122/23 123/15 123/16 132/4 132/7  
150/18 162/14  
two-plus [1] 47/17  
two-week [1] 123/15  
type [6] 22/3 51/14 59/3 71/6 148/6  
163/11  
types [1] 163/15  
typically [3] 78/10 105/11 105/13

U  
ultimately [2] 5/21 11/14  
unanimous [2] 19/12 25/7  
unanticipated [1] 111/7  
unaware [1] 148/16  
unchallenged [1] 14/3  
unclear [2] 22/20 86/16  
under [22] 17/18 17/23 18/24 19/21  
23/3 26/2 43/4 83/21 86/18 87/13 91/6  
101/22 105/22 109/6 109/24 129/12  
131/4 131/10 148/16 149/12 158/25  
169/8  
underfunded [1] 23/10  
understand [16] 6/9 7/1 10/17 11/24  
11/25 24/23 25/9 33/12 49/17 51/3  
57/21 63/16 76/10 108/19 124/21  
154/13  
understanding [13] 31/10 31/13 36/12  
37/1 51/14 68/12 68/24 69/1 122/9  
123/21 151/13 151/17 151/20  
understandings [1] 12/25  
understood [7] 30/25 37/4 37/12 41/17  
41/19 41/20 90/3  
unfair [4] 37/2 37/14 84/17 86/21  
unfortunately [2] 4/10 71/17  
unique [3] 5/12 90/14 90/18  
unit [4] 101/25 101/25 102/14 102/15  
university [1] 75/25  
unless [1] 111/7  
unrebutted [1] 155/11  
unsupported [1] 120/5  
unsympathetic [1] 86/22  
until [13] 14/3 14/13 14/24 16/3 30/24  
35/2 38/21 39/19 40/23 41/7 41/24  
106/2 106/3

unused [1] 138/12  
up [43] 3/13 16/3 28/4 28/7 30/19 33/1  
36/10 38/17 40/1 56/7 56/11 59/5  
59/24 62/4 67/5 77/24 77/25 78/4  
83/25 86/15 93/13 93/17 93/22 94/19  
95/24 110/24 113/23 113/24 113/25  
115/4 116/5 130/19 133/8 135/8  
135/10 135/22 136/2 139/19 157/9  
158/2 163/14 164/11 168/3  
update [1] 71/15  
upfront [1] 161/17  
upgrade [1] 135/19  
upon [2] 13/11 78/18  
us [20] 5/5 7/19 28/17 39/24 47/2 59/2  
59/3 64/14 78/1 78/7 78/9 88/23 95/12  
95/13 100/12 113/23 114/3 145/20  
151/7 166/5  
use [2] 8/20 92/23  
used [6] 6/3 6/11 116/7 120/9 138/18  
162/15  
using [5] 5/2 10/21 41/4 41/6 152/18  
usually [4] 89/12 90/20 139/24 143/4  
utilities [2] 137/25 158/4  
utility [1] 163/11  
utilize [2] 78/16 138/17

V  
vacant [1] 138/11  
Vaguely [1] 90/5  
valid [4] 19/11 38/25 49/1 156/18  
validated [1] 20/12  
validating [1] 23/7  
value [1] 22/14  
vendor [3] 146/24 150/4 152/17  
versed [1] 139/24  
versus [3] 68/4 96/3 147/18  
very [21] 22/22 35/15 56/14 57/17  
57/18 58/18 70/3 71/11 75/3 82/18  
89/11 92/5 92/17 104/19 124/2 144/4  
149/2 156/17 156/20 158/22 159/21  
vetted [1] 5/15  
via [2] 2/6 43/11  
Vice [1] 11/7  
Vicki [2] 3/19 113/22  
virtual [1] 107/17  
virtually [1] 4/12  
visited [1] 35/2  
voice [2] 54/8 143/19  
volume [1] 79/16  
volume-wise [1] 79/16  
Volusia [3] 91/23 101/22 128/15  
vote [86] 4/16 8/24 9/14 11/19 11/23  
12/9 12/11 13/6 13/7 13/9 13/12 13/16  
13/17 13/22 14/3 14/22 14/24 15/2  
15/9 15/19 15/19 15/21 16/4 16/6  
19/10 19/22 20/20 25/24 26/11 26/14  
26/18 26/25 27/12 30/22 30/25 31/1  
31/24 32/3 32/8 32/15 32/18 32/23  
33/7 33/11 33/13 33/16 33/25 34/7  
34/15 34/19 37/24 39/19 39/22 40/18  
40/23 41/14 41/16 41/18 41/19 41/20  
41/23 42/2 42/8 42/12 44/10 44/15  
45/3 45/21 49/19 58/10 59/4 59/6  
60/23 61/2 63/19 69/15 79/10 83/25  
88/18 99/8 132/22 132/22 165/20  
166/13 166/17 167/19  
voted [10] 5/21 13/4 20/2 20/2 33/19  
33/20 41/23 59/13 70/14 168/11  
votes [3] 9/25 25/5 31/12  
voting [11] 11/24 12/14 12/16 12/19

13/24 14/5 26/21 27/21 39/8 42/13  
61/1  
W  
wait [2] 32/24 39/17  
waiting [1] 39/16  
waive [3] 16/2 28/15 48/8  
waived [7] 16/1 26/22 27/10 27/11 28/6  
29/5 80/7  
waiver [7] 27/23 28/4 28/6 28/10 29/4  
44/12 48/8  
waiving [1] 8/6  
walk [1] 6/1  
Walton [1] 167/24  
want [34] 3/11 5/3 6/4 7/2 8/18 10/24  
14/17 26/12 28/13 29/24 32/25 53/5  
59/6 60/19 60/20 60/25 63/10 67/2  
67/16 72/7 73/3 77/21 87/9 88/2 89/23  
120/18 125/10 129/4 132/25 133/20  
136/5 136/7 163/1 163/19  
wanted [12] 10/16 39/21 57/8 58/11  
60/5 61/23 78/11 79/22 101/19 115/16  
143/20 148/13  
wanting [2] 54/1 63/17  
warm [1] 147/20  
warmers [2] 148/6 148/22  
warming [1] 147/2  
was [320]  
wasn't [21] 14/3 14/12 14/13 28/10  
32/21 35/2 38/21 41/24 43/10 43/17  
55/4 56/22 57/1 61/2 63/21 73/4 80/7  
109/15 115/7 115/23 130/8  
wasting [1] 115/23  
watch [2] 81/20 81/22  
way [32] 11/9 15/14 16/3 28/9 33/15  
34/2 36/18 36/23 39/20 40/1 41/16  
42/3 43/18 48/3 61/3 68/21 88/6 88/11  
91/6 92/12 94/4 95/19 111/16 111/18  
123/25 128/7 134/9 138/16 138/17  
143/7 144/12 150/11  
ways [3] 5/1 61/14 106/24  
wazoo [1] 135/9  
we [228]  
we'll [22] 9/14 10/4 10/10 10/19 24/7  
25/23 26/5 52/23 77/16 78/3 79/8 79/9  
79/11 107/20 107/20 107/22 107/24  
108/19 111/15 115/24 162/24 167/16  
we're [43] 8/11 9/3 10/9 11/9 36/9 37/9  
37/19 39/16 41/12 41/14 42/15 58/17  
72/19 80/1 83/9 87/7 87/9 87/16 87/22  
89/21 90/14 90/20 93/2 94/11 100/23  
102/2 106/25 110/4 110/6 113/17  
115/1 121/3 132/23 132/25 133/1  
137/25 149/22 150/20 162/2 162/20  
163/20 167/15 167/16  
we've [15] 28/19 39/23 42/11 46/15  
55/12 61/21 79/25 89/11 94/12 94/13  
95/13 109/11 110/10 128/14 158/5  
website [1] 13/19  
week [5] 17/19 106/2 106/2 123/15  
123/16  
week's [1] 13/7  
weeks [3] 17/25 122/23 123/16  
well [26] 3/13 16/8 19/3 22/23 40/18  
54/23 56/12 58/8 73/6 73/11 77/25  
78/4 88/11 103/15 109/1 109/16  
116/10 117/4 136/7 148/23 150/9  
156/8 158/23 160/13 160/18 168/4  
went [10] 13/23 35/9 38/20 39/22 43/13  
63/2 86/3 99/16 135/8 155/4

**W**

were [122] 7/7 8/5 12/5 13/3 13/19  
 15/8 15/10 15/11 17/5 17/9 17/10  
 17/11 18/2 21/2 22/1 27/21 32/7 32/7  
 33/18 36/12 37/12 37/20 37/21 39/5  
 39/6 39/12 39/21 40/15 40/15 40/22  
 42/13 42/19 42/22 47/1 48/16 49/7  
 51/17 53/21 53/22 53/23 54/25 55/1  
 55/7 56/20 57/20 59/16 59/23 60/16  
 62/11 68/16 74/5 74/10 80/16 80/19  
 80/20 80/23 81/1 81/21 81/24 82/9  
 82/10 82/25 83/15 84/9 84/11 84/21  
 85/4 85/11 85/21 86/13 86/14 86/15  
 88/4 94/19 94/20 95/5 99/6 102/13  
 103/13 103/14 103/16 103/22 103/22  
 105/19 107/18 108/12 108/13 108/15  
 108/20 108/21 115/18 116/4 116/8  
 116/15 117/2 117/18 117/22 120/16  
 125/6 127/7 127/11 127/25 129/22  
 130/8 130/11 134/24 135/7 135/24  
 135/25 136/9 137/13 141/17 146/17  
 147/25 150/5 155/5 155/7 155/10  
 162/18 168/14 169/5 169/7  
 weren't [6] 86/9 88/7 88/8 88/11 94/20  
 119/19  
 West [1] 1/13  
 western [2] 55/20 56/13  
 what [137] 6/3 8/11 14/5 15/1 15/3 15/4  
 15/6 15/23 16/1 16/8 20/7 21/10 21/11  
 24/23 24/24 26/12 26/20 27/4 27/15  
 28/4 28/18 29/3 29/13 30/2 30/3 31/14  
 32/8 34/4 35/6 35/6 36/3 37/15 38/3  
 38/11 38/20 39/3 39/18 40/21 41/8  
 41/19 41/20 44/3 47/24 47/24 48/16  
 49/17 53/21 53/22 64/2 64/24 65/21  
 66/22 67/3 68/18 68/24 69/1 69/9  
 71/16 73/18 74/16 74/21 80/8 82/22  
 83/10 85/3 85/3 86/23 87/6 88/2 88/3  
 88/4 88/12 89/10 89/11 89/20 90/13  
 91/2 91/25 92/25 93/16 94/1 94/5  
 94/21 94/24 95/17 96/7 98/9 101/16  
 102/17 105/9 105/11 105/12 105/19  
 105/19 106/13 107/19 107/25 108/12  
 109/20 109/21 109/22 109/25 110/10  
 111/6 111/11 111/17 111/19 111/23  
 116/15 120/20 123/21 123/22 123/23  
 127/6 129/9 130/20 134/16 134/17  
 143/2 147/13 147/15 147/18 150/9  
 153/1 153/3 158/9 159/4 159/17 161/7  
 161/10 162/20 163/4 163/13 163/14  
 163/24 164/10 164/14  
 what's [2] 29/12 64/23  
 whatever [7] 6/23 39/22 43/3 44/2  
 57/14 136/18 136/20  
 when [73] 7/19 8/15 10/22 11/18 12/3  
 13/22 14/14 15/2 15/9 16/15 18/23  
 20/19 22/22 23/3 24/1 27/23 28/23  
 30/11 32/9 32/18 37/3 37/15 38/10  
 38/16 39/5 39/8 39/20 41/15 41/17  
 43/18 46/21 47/4 47/10 50/19 52/20  
 52/25 55/4 58/17 58/20 59/14 63/9  
 66/4 66/5 67/4 72/1 79/12 79/14 80/16  
 82/21 83/24 84/6 85/12 86/16 87/11  
 89/21 91/24 93/23 94/11 94/16 108/19  
 115/8 116/2 126/20 127/18 128/23  
 129/5 139/3 139/8 143/4 146/14  
 147/16 154/19 168/12  
 Whenever [3] 28/2 145/24 165/3  
 where [51] 19/12 31/22 40/8 40/25  
 41/4 41/10 41/25 47/3 48/17 50/3 50/9

50/13 54/13 60/7 61/20 71/23 72/22  
 82/7 82/23 84/7 84/21 85/11 86/12  
 90/18 92/5 93/7 93/20 102/22 106/3  
 111/13 111/13 111/19 112/3 121/3  
 121/4 121/5 122/8 129/17 137/1 148/2  
 151/3 155/5 155/7 156/17 157/11  
 159/15 159/20 163/16 163/17 164/2  
 164/5  
 whereas [1] 131/19  
 Whereupon [3] 77/19 114/11 168/14  
 whether [44] 19/10 25/24 26/14 26/22  
 27/10 31/11 39/21 41/13 41/14 43/2  
 44/1 44/9 46/17 48/3 48/4 69/8 71/7  
 80/20 81/13 81/23 85/20 86/20 87/10  
 91/9 91/9 91/13 97/9 97/11 99/7  
 100/15 114/16 119/11 124/18 126/25  
 135/16 137/24 141/8 144/8 145/22  
 149/19 150/22 152/4 152/17 154/10  
 which [71] 11/12 11/20 13/4 13/10 14/7  
 15/5 17/17 18/12 19/20 20/15 23/17  
 25/9 25/24 26/13 28/9 29/20 35/1  
 39/20 42/17 43/13 48/12 49/4 49/6  
 51/4 56/23 57/21 58/10 60/19 60/20  
 63/2 68/8 68/16 68/21 72/12 72/18  
 73/7 73/10 73/13 74/8 75/13 75/13  
 81/6 96/18 96/20 96/23 101/22 114/15  
 117/14 120/4 122/22 128/21 129/18  
 130/18 131/20 131/22 137/14 138/18  
 141/20 142/7 142/15 145/21 146/11  
 147/19 151/22 153/1 153/3 155/2  
 155/11 158/3 159/14 164/17  
 while [6] 17/12 19/16 24/7 73/14 81/11  
 96/14  
 who [25] 7/21 11/7 20/9 20/10 25/9  
 27/20 29/1 31/21 32/14 32/15 57/10  
 60/16 60/22 60/22 62/11 65/7 65/8  
 75/10 75/10 86/2 105/1 105/21 110/22  
 130/8 138/22  
 whole [1] 156/2  
 whomever [1] 48/22  
 why [22] 8/18 39/25 39/25 42/15 43/13  
 55/7 55/25 58/5 58/12 61/18 63/16  
 63/17 65/11 83/20 94/10 94/21 111/8  
 119/19 130/7 146/5 151/11 152/8  
 wide [1] 121/24  
 will [88] 3/2 4/16 5/9 6/1 6/19 6/22 6/24  
 8/12 8/15 8/21 8/23 9/12 9/17 9/22  
 9/24 10/6 10/14 10/17 10/18 10/21  
 15/24 18/21 24/4 35/11 45/12 45/21  
 45/24 46/7 46/9 50/16 50/21 50/23  
 50/25 52/5 52/7 59/5 60/21 64/22 66/6  
 66/11 66/14 69/2 72/2 72/13 76/19  
 77/4 77/15 77/20 78/8 78/16 84/10  
 91/7 100/12 109/12 111/19 111/24  
 112/4 114/6 114/15 119/13 121/24  
 122/20 123/5 128/10 130/24 133/17  
 133/21 133/22 136/10 136/19 137/4  
 137/12 139/25 146/23 146/24 147/2  
 149/5 159/25 160/12 160/16 164/11  
 166/14 167/19 167/21 167/22 167/24  
 168/3 168/11  
 willing [2] 59/17 59/18  
 wise [1] 79/16  
 wish [2] 6/23 133/3  
 within [10] 24/11 29/10 61/24 64/1 65/1  
 82/13 125/11 136/11 142/24 149/12  
 without [6] 32/23 38/6 90/8 95/17  
 109/25 136/23  
 Wollermann [1] 3/18  
 won't [1] 157/2

word [2] 51/4 146/21  
 words [3] 20/19 86/20 104/16  
 work [12] 3/10 3/12 18/1 41/25 56/2  
 61/15 61/19 62/17 62/18 82/1 84/18  
 91/6  
 working [2] 47/13 96/14  
 works [3] 51/12 52/6 88/12  
 worlds [1] 111/10  
 worst [1] 131/6  
 worth [1] 128/13  
 would [156] 3/22 5/11 7/22 16/12 18/9  
 20/17 23/7 26/6 26/19 29/2 29/18  
 31/23 32/17 33/2 33/7 38/6 42/14 44/8  
 44/14 46/19 48/19 48/22 50/1 50/2  
 50/11 51/6 53/15 57/24 58/9 59/15  
 60/11 65/17 66/23 67/14 67/15 68/11  
 68/20 68/22 72/5 72/18 74/16 74/22  
 78/6 79/7 81/2 84/25 85/11 89/9 89/18  
 93/4 95/18 95/19 96/13 96/21 98/15  
 102/5 102/15 103/9 103/12 104/3  
 104/8 104/10 104/11 104/15 104/17  
 104/20 105/12 105/18 105/19 106/6  
 108/6 108/7 108/16 108/23 109/7  
 109/8 110/9 110/11 115/6 115/18  
 115/19 116/17 117/10 120/7 120/23  
 121/19 121/22 121/23 122/11 122/18  
 122/23 123/8 123/9 123/11 123/14  
 123/18 123/19 124/2 124/3 124/4  
 124/8 124/20 125/17 126/8 126/22  
 127/19 131/9 131/15 132/18 134/5  
 134/10 135/14 136/4 136/5 136/9  
 137/4 138/6 138/12 138/13 138/14  
 138/20 138/22 140/20 141/11 141/20  
 141/24 142/4 142/17 143/13 144/1  
 144/18 145/8 146/10 147/15 147/24  
 148/14 148/17 149/9 149/19 150/3  
 150/9 150/22 151/1 151/2 151/11  
 151/22 151/22 151/25 152/3 153/22  
 155/11 155/14 159/16 160/7 161/14  
 162/19  
 wouldn't [4] 81/21 109/24 117/2 152/8  
 write [2] 21/17 94/6  
 writes [1] 130/9  
 writing [6] 20/15 20/23 21/1 31/13  
 34/17 93/21  
 written [12] 6/8 6/16 10/14 61/3 68/11  
 127/24 127/25 130/22 130/23 167/14  
 167/18 167/20  
 wrong [3] 39/24 81/14 87/11  
 wrote [1] 105/1

**Y**

yeah [13] 49/24 99/23 101/7 104/25  
 125/10 130/6 130/10 154/16 161/7  
 161/20 162/1 162/19 162/25  
 year [22] 63/13 73/13 106/3 106/3  
 119/23 122/18 123/5 123/17 128/12  
 131/18 131/19 131/21 134/3 134/9  
 142/10 148/24 157/8 157/9 162/7  
 162/12 162/16 163/5  
 year's [1] 122/25  
 years [7] 37/10 49/6 55/19 128/9  
 128/11 133/17 162/13  
 yell [1] 10/24  
 yes [100] 11/2 19/15 20/2 26/8 30/16  
 30/24 31/5 31/6 33/4 35/23 40/7 44/8  
 45/9 45/14 45/16 45/21 46/2 46/13  
 53/4 56/18 57/6 60/17 62/20 64/8  
 69/18 70/24 72/2 75/12 77/6 77/8  
 77/10 77/12 78/2 79/21 89/4 89/25

## Y

yes... [64] 90/11 90/16 92/17 100/4  
100/6 100/8 100/10 100/25 101/9  
103/2 104/5 107/13 111/23 113/8  
113/10 113/12 113/14 114/10 119/2  
119/4 119/6 119/8 122/4 125/1 126/11  
126/13 126/15 126/17 129/25 131/13  
136/17 139/14 140/23 140/25 141/2  
141/4 141/14 145/11 145/13 145/15  
145/17 146/15 147/21 148/9 152/2  
153/25 154/2 154/4 154/6 158/19  
159/12 160/4 162/11 162/15 164/4  
164/22 165/25 166/2 166/8 166/10  
166/22 167/4 167/6 167/10  
yet [4] 17/25 23/20 23/23 159/6  
yield [1] 111/19  
you [402]  
you'll [2] 107/24 133/12  
you're [23] 19/20 28/2 52/20 77/23  
78/23 84/1 86/23 86/24 87/23 88/17  
90/17 93/7 107/17 109/19 121/25  
127/18 130/10 132/17 137/17 145/24  
146/14 154/19 165/3  
you've [6] 3/11 4/8 7/2 28/6 28/17  
109/13  
your [43] 3/3 8/18 8/20 18/12 21/10  
25/16 26/4 34/20 51/24 53/8 53/11  
55/15 64/11 65/13 67/9 69/19 69/21  
70/20 75/5 79/3 84/5 90/12 91/6 92/9  
92/16 99/24 102/9 102/18 103/8  
106/10 106/11 109/20 111/6 113/25  
122/7 134/13 138/25 139/1 139/11  
139/22 141/11 162/3 165/7  
yourself [5] 21/6 81/23 83/24 84/7 84/7

## Z

zone [2] 56/7 60/7  
zoned [1] 132/18  
zones [2] 62/3 132/24  
ZOOM [1] 2/6