

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

UNITED STATES DEPARTMENT OF EDUCATION
PRESIDENT'S COMMISSION ON
EXCELLENCE IN SPECIAL EDUCATION

* * *

FIFTH MEETING

Washington Hilton Hotel
1919 Connecticut Avenue,
N.W.
Monroe Room
Washington, D.C.
Thursday, June 13, 2002
9:20 a.m.

The meeting was held pursuant to notice, on
Thursday, June 13, 2002, at 9:20 a.m., Terry Branstad,
presiding.

1

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

ATTENDEES:

TERRY BRANSTAD, Chairman

PAULA BUTTERFIELD

DAVID GORDON

C. TODD JONES

JAY CHAMBERS

WADE HORN

DOUGLAS HUNTT

THOMAS FLEMING

BETH ANN BRYAN

FLOYD H. FLAKE

ED SONTAG

STEVE BARTLETT

BOB PASTERNAK

CHERIE TAKEMOTO

ALAN COULTER

JAY DISKEY

MICHAEL RIVAS

REID LYON

NANCY GRASMICK

BRYAN HASSEL

1 P R O C E E D I N G S

2 CHAIRMAN BRANSTEAD: I'd like the
3 Commissioners to take your seats. There might still
4 be some in the breakfast room. Please notify them so
5 that we can get started.

6 We're waiting on Tom to get back, but I
7 think we'll go ahead and get started. We've got a
8 lot of work to do in this meeting today.

9 I want to welcome all of you again. As
10 you know, I'm Terry Branstead, Chairman of the
11 President's Commission on Excellence in Special
12 Education. I welcome all of you to today's meeting.

13 Let me again say welcome to all of you. We
14 welcome both the Commissioners and visitors and
15 guests to today's meeting.

16 The focus of our meetings today and
17 tomorrow will be to review the draft report that we
18 will be submitting to the President early next month.
19 The President's charge to the Commission was to
20 conduct an extensive and public review of special
21 education. We have done that.

22 The draft report that you have before you

23

1 today reflects the information we received from 109
2 expert witnesses and hundreds of members of the
3 public. This expansive examination will enable the
4 Commission to produce a report that will not only
5 provide vital input into the reauthorization of the
6 Individuals With Disabilities Education Act, but it
7 will also contribute to the national debate on how to
8 best educate all children.

9 Before we begin our discussion, I would
10 like to announce several ground rules. The first is
11 that the purpose of this meeting is for the whole
12 Commission to consider task force draft
13 recommendations.

14 As you know, the task forces -- we had
15 several of them -- were composed of a minority, not a
16 majority of the Commission. By the end of today's
17 session, we will have reviewed the whole of the
18 report, and we will have a final vote on adopting the
19 whole report.

20 I guess I should say that by the end of
21 tomorrow's session, although we're going to try to
22 move as expeditiously as we can today.

1 Second, it is my goal that the report be
2 adopted by consensus; that is, that the Commission
3 unanimously adopt its recommendation. That does not
4 mean that every single Commissioner agrees with every
5 single word or phrase in the document.

6 Instead, it means that within the bounds
7 of collegiality and compromise, every member of the
8 Commission is willing to accept the whole of the
9 report. During our two days of discussion, we will
10 likely have suggested changes to the report.

11 There will be an opportunity vote up or
12 down on these proposed changes and content. When
13 those are completed and the document is considered as
14 a whole, you will be asked to vote on whether you
15 will support the whole report.

16 Third, the consideration of each of the
17 report's seven sections will take place in the order
18 in which they were circulated to the Commissioners;
19 that is:

20 Number One: Accountability, Flexibility,
21 and Parental Empowerment.

22 Number Two: The Federal Regulatory and
23

1 Monitoring Process, Reduce Paperwork, and Increase
2 Flexibility.

3 Number Three: Improve Assessment and
4 Verification Methods.

5 Number Four: Recruit and Retain More
6 Special Education Teachers and Improve Educator and
7 Administrator Preparation and Training.

8 Number Five: Improve Federal Involvement
9 in Special Education Research Practices, Priorities,
10 and Dissemination of Information.

11 Number Six: Improving Successful Post-
12 Secondary Results for Students with Disabilities
13 Through Effective Transition Services.

14 Number Seven: Improve Special Education
15 Finance.

16 During each section's consideration, you
17 may propose whatever changes you'd like to the text
18 of the document, summary recommendations,
19 recommendations in the text, titles of the sections,
20 and order of the text.

21 You will be able to move, accept, reject,
22 or modify any of that text after a motion, a second,

23

1 and debate. You will then be able to vote on the
2 proposed changes.

3 When every Commissioner has his or her say
4 on every section, the section will be put to a vote
5 for acceptance by the Commission. Sections can then
6 not be reopened without the consent of the Chairman
7 and a majority vote of the whole Commission.

8 When all of the sections are complete, we
9 will then have a vote on the whole of the report.

10 Fourth, ex officio members may not vote on
11 changes or on final adoption of the report, however,
12 they may propose changes like any other Commissioner.

13 Fifth, amendments to the whole report will
14 be allowed, within reason. There may be some matters
15 that will be easier to address, once and for all,
16 instead of several separate amendments.

17 For example, if there are motions to
18 change every reference in the report to Iowa to read,
19 the great and glorious state of Iowa, that would
20 undoubtedly be in order, and easier to accomplish
21 once.

22 MR. BARTLETT: So moved.

23

1 (Laughter.)

2 CHAIRMAN BRANSTEAD: That was a facetious
3 reference, thank you very much. Passing multiple
4 amendments, by such amendments -- but such amendments
5 will be held to a standard of reason, and proposed
6 changes that may be difficult to understand without
7 reviewing each and every reference in the report,
8 will not be allowed, really at the discretion of the
9 Chairman.

10 Lastly, please note that your version of
11 the report has line and page numbers. As noted in
12 Todd's e-mail earlier this week, to facilitate
13 implementation of proposed changes, you are asked to
14 make your recommendation, citing the page and line
15 number of the change.

16 As a matter of administrative convenience,
17 I will give first preference in discussion to those
18 amendments that were prepared prior to discussion of
19 a particular section, and that have already been
20 printed. So, the ones that we receive in advance
21 that will be printed will be given first priority.

22 Then after consideration of all the
23

1 preprinted amendments, we will move to amendments
2 from the floor. If you think of a new change that
3 you would like to make to an upcoming section, Linda
4 Emery -- Linda just stood up -- is the Commission's
5 senior policy advisor.

6 She will help you prepare and print your
7 proposal. If you have an amendment that you want to
8 work on for an upcoming section, please work with
9 Linda.

10 As this Commission's work draws to a
11 close, I would like to again thank all of you
12 Commissioners for your diligence and your hard work
13 and for your involvement in this very important
14 process. Each of you has truly followed the
15 President's charge of Leaving No Child Behind in
16 contributing to this report.

17 Now we want to begin with the discussion,
18 but before we get into the discussion, I have an
19 introduction to make. I'd like to introduce Jay
20 Diskey, a consultant that we hired to help with the
21 report. Jay is a former Director of Communications
22 for the House Committee on Education and Workforce.

23

1 He also served as spokesman for former
2 Secretary of Education, Lamar Alexander. For the
3 past three years, Jay has run his own consulting
4 company that specializes in policy communications in
5 Education. Jay Diskey.

6 MR. DISKEY: Thank you, Chairman
7 Branstead. I'll just talk very briefly for three or
8 four minutes about the editing, design, and
9 production of the report, to give you a few updates
10 about where those things stand.

11 I'm very happy to do so, but I first want
12 to thank you for involving me in this report. I
13 truly appreciate helping with the important task at
14 hand, and I'm pleased to be involved.

15 As the outside editor, I'm assigned to
16 edit the report and coordinate its design and
17 production. I emphasize the outside part of this
18 task.

19 When I was a newspaper reporter in East
20 Tennessee a couple of years ago, public officials who
21 didn't want to comment, used to tell me that they
22 didn't have a dog in the hut. I want you to know

23

1 that I don't have a dog in the hut.

2 I'm not an advocate of any position taken
3 by the Commission. In fact, I've deliberately stayed
4 away from the hearings and deliberations about this,
5 because I don't necessarily want to know the various
6 thinking that goes into the various passages of this
7 report. I am, however, a very strong advocate of
8 readability, consistency, and clarity.

9 We've now gone through the report twice in
10 another draft, as well as the recent draft that you
11 have before you. Todd asked me to make just a couple
12 of comments about how I view the report.

13 At the moment, in terms of readability,
14 clarity, and consistency, the things I'm supposed to
15 advocate for, quite frankly, I think we're getting
16 there. The report, by and large, seems to be
17 becoming more readable to all audiences, week-by-
18 week. And I do emphasize, all audiences.

19 The first and foremost audience for this
20 report is the White House, the person that asked for
21 it, President Bush. But at the same time, we all
22 have seen a need to have this as a readable report to
23

1 parents who might be interested in the IDP process,
2 or how they can involve themselves to a greater
3 degree.

4 We want to make it certainly readable to
5 classroom teachers. Having said this, I certainly
6 recognize we're not creating a handbook for classroom
7 practices, but at the same time, I am advocating
8 greater readability for many of those sections.
9 There are some inconsistencies between sections, and
10 those are, as I said, improving, week-by-week.

11 In terms of the design, production, and
12 final printing of this report, just to give you an
13 update of what it might look like, the initial design
14 of the report is a 7.5 x 9, which is a bit smaller
15 than most reports you see. It's called executive
16 style. If you have a copy of that perennial classic,
17 a Nation at Risk, on your bookshelf, it is that size.

18

19 The report is anticipated to be about 64
20 to 80 pages. I seems to be growing just a little
21 bit, week-by-week.

22 All background materials, in terms of

23

1 transcripts, letters submitted for the record, et
2 cetera, will be placed on a CD ROM that will be
3 packaged with the report. In terms of our schedule
4 for doing these, once a final approved report is in
5 hand, the outside design firm, which has been
6 designed to do this work, will need two to three
7 weeks and GPR will need another two to three weeks to
8 do a rush printing job.

9 In other words, from the time that the
10 Commission gives us a final report, it will be
11 between four and six weeks in terms of taking it
12 through the final design, production, and printing
13 process.

14 In keeping with the Chairman's and Todd's
15 request for brief comments, I hope those are brief
16 enough, but I will be happy to take any questions you
17 have.

18 CHAIRMAN BRANSTEAD: Any questions you'd
19 like to ask Jay?

20 (No response.)

21 MR. DISKEY: Thank you very much.

22 CHAIRMAN BRANSTEAD: Thank you. We
23

1 appreciate your assistance in helping with this
2 product. Are there any questions of me?

3 I went through and laid out the ground
4 rules, in case there is any confusion or questions
5 about that. Are there any questions about that?

6 (No response.)

7 CHAIRMAN BRANSTEAD: Are the ground rules
8 that I laid out acceptable to all Commission members?

9 MS. TAKEMOTO: I just want to find out,
10 are we going to go through one -- we're not going to
11 go through one individual's whole amendment, but if
12 there is discussion on a particular section, would
13 there be discussion about that particular section?

14 CHAIRMAN BRANSTEAD: Yes, for instance,
15 we're going to go through this section-by-section,
16 amendment-by-amendment, starting with the written
17 amendments, first. And then there could be some
18 amendments from the floor, and that will come up as
19 well.

20 But, for instance, I have a situation
21 where we have two or three amendments to the same
22 line or same section. We would want to take those up

23

1 at the same time, either together, or so you know you
2 have two or three different choices on changes there.

3 Essentially it would be similar to the way
4 it's done in our legislative body. We will go about
5 it in that manner.

6 I have presided over the State Senate in
7 my state for four years. That's the kind of
8 procedure I think makes the most sense. I think it's
9 the most fair and equitable way to do it.

10 MS. TAKEMOTO: My other question is, we
11 received some written comments from Jack Fletcher,
12 who is taking those amendments for that week, and who
13 is going to handle those?

14 MR. JONES: The order that Governor
15 Branstead is going to bring up, will track the order
16 of all the amendments that have come in early. For
17 example, the schedule right now has Pasternack-1,
18 Burdine-1 and 2, Fletcher-1, Fletcher-3, Takemoto-1,
19 in the order of the amendments, because that's the
20 order of the text.

21 MS. TAKEMOTO: Then just one more thing:
22 Bill Costa asked me to tell the members of the

23

1 Commission that she is having some pretty serious eye
2 condition and is not able to be here today. She asks
3 for your thoughts and prayers.

4 CHAIRMAN BRANSTEAD: Allen?

5 MR. COULTER: I just want to say that I
6 think Commissioner Costa and Commissioner Burdine
7 both have serious health problems that have prevented
8 them from attending this meeting, and I think all of
9 us would have our prayers with them for their full
10 recovery.

11 CHAIRMAN BRANSTEAD: Very good. You might
12 notice that there's a little red line that goes
13 around the microphone. It took me a little while to
14 figure this out.

15 When you go to speak, you need to press
16 the green button that turns it on. And then when
17 your microphone is on, that red line will be lit up.
18 When you complete your presentation, press the green
19 button again to turn it off.

20 Are there any additional questions about
21 the procedure as we begin the discussion?

22 (No response.)

23

1 MR. JONES: Let me add one more thing.
2 There are two sets of Pasternack amendments in front
3 of you. It's merely the order in which he prepared
4 them.

5 The first set of amendments are the ones
6 that look like this, smaller print. Who does not
7 have those? The three of you? I'll pass you those
8 in a second.

9 Those are then followed -- then there are
10 the ones he has prepared later. The order in which
11 they are announced will be based on the small print,
12 not the large print.

13 MR. HUNTT: Mr. Chairman, with regard to
14 voting on the whole document and the process, we've
15 been asked to table the discussion on voting on the
16 whole document till later this afternoon.

17 But I wanted to state for the record that
18 we do have an issue that we would like to talk about.
19 When you asked if we had any other questions on the
20 process, we do, but we'd like to table it till this
21 afternoon.

22 CHAIRMAN BRANSTEAD: And that's got to do
23

1 with consideration of the entire document?

2 MR. HUNTT: Yes, sir.

3 CHAIRMAN BRANSTEAD: I will be glad to
4 recognize you at the appropriate time.

5 MR. HUNTT: Thank you.

6 CHAIRMAN BRANSTEAD: With that, we will
7 proceed to the amendments. The first section is the
8 accountability section. We'll go to these sections
9 as I announced.

10 The first section that we will deal with
11 is accountability, flexibility, and parental
12 involvement. The first amendment is Pasternack-1.

13 MR. JONES: Actually, the hard copy of it
14 is being distributed.

15 (Pause.)

16 MR. PASTERNAK: Mr. Chairman, given the
17 importance we have placed on this, I move that we
18 give the Commissioners a couple of minutes to read
19 the amendment before we act on it.

20 CHAIRMAN BRANSTEAD: Okay, we'll give
21 people a chance.

22 (Pause.)

23

1 MR. COULTER: Mr. Chairman, would you hold
2 up for us, which one we're supposed to be looking at?

3 (Laughter.)

4 CHAIRMAN BRANSTEAD: I don't know if all
5 of you know exactly how these amendments are
6 considered. For instance, it's my understanding is
7 that new language is underlined and deletions have a
8 line through them.

9 So, in reading these amendments, you'll be
10 able to tell the changes being made from the proposal
11 that came from the task force. If it's underlined,
12 it's new language that's added.

13 If it's got a line through it, it's
14 language in the proposal that's being deleted by the
15 amendment. Does everybody understand that? That's
16 the format that we need to know when we're looking at
17 and considering the amendments.

18 In that way, when you look at the
19 amendment, you can see what the changes are by seeing
20 if it's a deletion or an addition.

21 MR. COULTER: Mr. Chairman, I would like
22 to note that we're all impressed with the fact that

23

1 Dr. Pasternack has obviously become quite the
2 bureaucrat, because he's generated the most paper.

3 (Laughter.)

4 MR. PASTERNAK: Thank you, Dr. Coulter,
5 duly noted. I do have, by the way, Mr. Chairman,
6 some other amendments to this same section that I was
7 not able to get put in the same format as the initial
8 set of amendments, so I would reserve the right, if I
9 may, sir, after we discuss the first set of
10 amendments, to go through the next set of amendments
11 that I have distributed in this fairly lengthy, 25-
12 page packet, which is one of two packets that I have
13 prepared for review by the Commission at today's
14 meeting.

15 CHAIRMAN BRANSTEAD: Okay.

16 MS. TAKEMOTO: Dr. Pasternack, I know that
17 in your discussion, you say that adequate yearly
18 progress is not to be confused with adequate yearly
19 progress in Title I. But that concept of schools
20 making progress and what that measure of adequate
21 progress would be, to me, I think, sounds -- annual?
22 Thank you -- adequate.

23

1 I think at the last meeting, we discuss
2 that adequate yearly progress is something that we'd
3 like to do, and I'm just wondering, are there
4 implementation issues that you're trying to correct
5 here, or what is your intent in making that change.

6 MR. PASTERNAK: Thank you, Commissioner
7 Takemoto. I have agonized over this as well, because
8 I think that the intent of a lot of our discussion
9 has been to make sure that we include students with
10 disabilities in accountability systems.

11 There is just so much confusion right now
12 in the field over AYP as defined for Title I. And
13 then the ESEA reauthorization, I just wanted to have
14 an opportunity to get a sense as to whether the
15 Commission would be amenable to coming up with
16 language that would still require students with
17 disabilities to make progress on an annual basis, and
18 that perhaps we take a look at some different
19 language.

20 I am not totally convinced, even myself,
21 that this is the right strategy, but I wanted us to
22 have an opportunity to discuss it one more time

23

1 before we finalized the report.

2 MR. COULTER: I think that in our
3 discussions, what we have been particularly concerned
4 about were two issues as it relates to this section:
5 One, that every child, including all children with
6 disabilities, are included in the accountability
7 system;

8 Two, that we are talking about adequate
9 yearly progress for every child. I would submit that
10 neither the current language that we're looking at,
11 nor Dr. Pasternack's edit, accomplish that goal,
12 because it's not progress for LEAs; it's adequate
13 yearly progress for individual students.

14 So, the term for LEAs is also problematic.
15 We're really talking about individual students here.

16

17 CHAIRMAN BRANSTEAD: Yes, Thomas Fleming.

18 MR. FLEMING: In reading this, I have been
19 struggling with these abbreviations, so I do know
20 what IDEA stands for, and No Child Left Behind. He
21 just now made reference to another abbreviation that
22 I'm not acquainted with.

1 For myself and some of the audience, maybe
2 for some of these abbreviations, please give us the
3 full name.

4 MR. PASTERNAK: Mr. Chairman and
5 Commissioner Fleming, I'm deeply sorry. My time in
6 Washington has really affected my language, so I
7 apologize.

8 We talk in acronyms here, because that's
9 just how they live here, but let me just say that
10 ESEA stands for the Elementary and Secondary
11 Education Act, which was the bill that was
12 reauthorized, that does have those Title I provisions
13 in it that require states to demonstrate kids will be
14 making adequate yearly progress.

15 Those are the AYP provisions of the NCOB
16 and the ESEA in H.R. 1.

17 (Laughter.)

18 MR. PASTERNAK: LEA stands for Local
19 Education Agency, which is another acronym basically
20 saying a school district. SEA would be the State
21 Education Agency. Please feel free to just interrupt
22 me as we go along. I really do apologize.

23

1 MR. FLEMING: Thank you.

2 CHAIRMAN BRANSTEAD: Jay Chambers.

3 MR. CHAMBERS: I'm not really comfortable
4 with eliminating parent and student satisfaction
5 measures, which Dr. Pasternack's amendment delete. I
6 would like to see that continue to be included.

7 CHAIRMAN BRANSTEAD: Further discussion?
8 Sherry Takemoto?

9 MS. TAKEMOTO: I'm sorry. I have never
10 served in a legislative body before, so I'm not clear
11 about a point of order. If you could help us along
12 by asking for motions or whatever, that would help
13 me.

14 CHAIRMAN BRANSTEAD: What we're going to
15 do is, when we have an amendment, generally speaking,
16 we're going to let the sponsor of the amendment make
17 opening remarks, and then I'm going to recognize any
18 Commissioner who has discussion on it, and then we
19 will proceed to final remarks, unless the person
20 that's proposing the amendment doesn't care to.

21 But that's generally the procedure we use.
22 If the sponsor has opening remarks, and any other

23

1 member will be given an opportunity to address it.

2 I guess the other question I would ask is,
3 amendments to an amendment, generally speaking, if,
4 for instance, there is some concern about language in
5 an amendment that's being offered, an amendment can
6 be offered to that amendment, but you cannot go to
7 the third degree.

8 In other words, you cannot go to the third
9 degree. You can't amend the amendment to the
10 amendment.

11 MR. PASTERNAK: Mr. Chairman, if I could
12 briefly respond to the question that my colleague and
13 Ms. Takemoto raised, it gets to the issue of
14 scientific evidence that we're trying to bring into
15 education.

16 I don't want to at all diminish the
17 importance of parental and student satisfaction in
18 assessing delivery of services, but there is so much
19 subjectivity around parental and student satisfaction
20 measures, that I'm concerned we are trying to
21 increase the rigor of scientific evidence that we are
22 bringing to bear on implementing the President's

23

1 accountability for results.

2 These issues, to me, are much more
3 difficult to define, much more difficult to
4 operationally define, and much more difficult to
5 empirically define. That was my intent here, to
6 strike those, not to diminish their importance, but
7 to focus on the measures that we already have in
8 place in the other sections of this recommendation.

9 CHAIRMAN BRANSTEAD: Mr. Huntt?

10 MR. HUNTT: Mr. Chairman?

11 CHAIRMAN BRANSTEAD: Doug Huntt.

12 MR. HUNTT: Thank you, Mr. Chairman, it's
13 also seen by some that it's also redundant.
14 Consumers are in the IDEA process anyway. They are
15 part of building the whole plan, so satisfaction
16 should be built in already.

17 CHAIRMAN BRANSTEAD: Ed Sontag.

18 MR. SONTAG: I clearly would support
19 parental satisfaction being included. I don't think
20 it's a great difficulty in collecting that data. I
21 think, however, if we get at the student satisfaction
22 data, it would represent a whole different problem.

1 I think that if we are really going to
2 stretch the paradigm here, we really should include
3 parental satisfaction data.

4 CHAIRMAN BRANSTEAD: Is there any further
5 discussion?

6 MR. BARTLETT: Mr. Chairman?

7 CHAIRMAN BRANSTEAD: Steve Bartlett.

8 MR. BARTLETT: Mr. Chairman, I was making
9 final changes on the accountability, and are we
10 discussing now just Recommendation 1?

11 CHAIRMAN BRANSTEAD: We're just on the
12 first amendment, which is Pasternack-1. This
13 amendment was passed out.

14 MR. BARTLETT: In its entirety?

15 CHAIRMAN BRANSTEAD: In its entirety.

16 MR. BARTLETT: I request that we divide
17 the question and take it one recommendation at a
18 time.

19 MR. PASTERNAK: I'm sorry, Mr. Chairman,
20 but, Commissioner Bartlett, that's what we're trying
21 to do; we're discussing the first set of proposed
22 edits on Recommendation 1.

1 MR. BARTLETT: For clarification, that's
2 lines 3 through 11?

3 MR. PASTERNAK: Ten-four.

4 (Laughter.)

5 CHAIRMAN BRANSTEAD: That's 3 through 11.

6 MR. BARTLETT: My question of Secretary
7 Pasternack is, could you tell us in layman's language
8 -- you struck the last sentence, the state should be
9 required to find adequate progress, and added the
10 words what seems to be softer words, adequate yearly
11 progress.

12 Could you clarify, in lay language, what
13 the difference between your sentence and the task
14 force's sentence is? Your words are that the states
15 should be required to establish a definition as it
16 applies, and so forth. Are you trying to soften it
17 or strengthen it?

18 MR. PASTERNAK: I'm sorry, Commissioner
19 Bartlett. We had this discussion when you stepped
20 out of the room. I will try to reiterate, briefly.

21 I have some ambivalence about my own
22 amendment that I am proposing it. The reason I am

23

1 proposing it is because there is so much confusion
2 right now in the field over the AYP provisions of
3 H.R. 1.

4 In thinking about it, it seemed to me to
5 be perhaps an easier way of getting the special ed
6 community not to back away at all from the importance
7 of students with disabilities making progress, but
8 perhaps to use some different language.

9 And I know that I had initially argued
10 that we use the same language that was in the ESEA
11 reauthorization. I just wanted us to have one more
12 opportunity to just have the discussion and take the
13 pulse of the Commissioners regarding whether it
14 should be annual progress or whether it should be the
15 same language that we had in their in H.R. 1 for
16 adequate yearly progress.

17 There seems to be some thought that I've
18 given that perhaps it should be different language,
19 and I just wanted to get some help from the
20 Commission in helping me conceptualize this.

21 MR. BARTLETT: The difference is whether
22 we would say adequate progress or a new term called
23

1 annual progress. Mark me down to just keep it
2 consistent with No Child Left Behind, adequate yearly
3 progress. That's confusing enough, but adding in a
4 new set of confusions is probably not helpful.

5 So I would argue that we keep the adequate
6 yearly progress.

7 CHAIRMAN BRANSTEAD: Allen Coulter.

8 MR. COULTER: Like Commissioner Takemoto,
9 I'm kind of learning my way this morning. I had made
10 a point earlier -- I don't know if Commissioner
11 Bartlett was in the room or not, that my concern is
12 over the phrase for LEAs. I think it should be for
13 all students with disabilities.

14 How would you suggest I make an amendment,
15 or do I need to, once we vote on Commissioner
16 Pasternack's amendment to offer something new? I'm
17 only concerned with that one particular phrase, not
18 all of lines 3 through 11.

19 MR. PASTERNAK: Mr. Chairman, could I
20 accept a friendly amendment if we go back to the
21 original language, which seems to be the sentiment
22 that I'm hearing already, that we say something like

23

1 states should also be required to define adequate
2 yearly progress for students and LEAs towards these
3 goals? Would Commissioner Coulter be amenable?

4 MR. COULTER: That's fine, thank you, sir.

5 CHAIRMAN BRANSTEAD: That's going to be a
6 friendly amendment then.

7 MR. PASTERNAK: Mr. Chairman, I'm sorry,
8 I would withdraw that sentence of my amendment. This
9 is going to be a fun day, I can tell. I would
10 withdraw that sentence on lines 9 and 10, or actually
11 lines 10 and 11.

12 I would withdraw that, I would strike
13 that, I would go back to the original language,
14 except inserting for students and LEAs towards these
15 goals, if that would be acceptable to the
16 Commissioners, and perhaps we could get a consensus,
17 at least on that part.

18 CHAIRMAN BRANSTEAD: So we're back to
19 adequate yearly progress, and then you're adding
20 students, as well as LEAs, right?

21 MR. PASTERNAK: Yes, sir.

22 CHAIRMAN BRANSTEAD: Okay. Steve

23

1 Bartlett. That's agreeable?

2 MR. BARTLETT: That's agreeable. I want
3 to go to another part.

4 CHAIRMAN BRANSTEAD: Reid Lyon?

5 MR. LYON: Just returning to the parent
6 satisfaction issue, is there any way to change the
7 word, satisfaction, to parent input? That is more
8 consistent with the IDP process.

9 MR. BARTLETT: Mr. Chairman, let me
10 respond to that.

11 CHAIRMAN BRANSTEAD: Yes.

12 MR. BARTLETT: The task force had a great
13 deal of discussion about this. We called it the Dave
14 Gordon section.

15 I'm not sure I heard why Secretary
16 Pasternack wanted to delete parent/student
17 satisfaction. We're negotiable on whether we want it
18 to be students or not, but we want it to be parents
19 and we want it to be satisfaction. We're tired of
20 input; we want output, which is parent satisfaction.

21 Parent satisfaction is a measure of
22 output. Schools that have used it have been

23

1 tremendously improved, and schools that haven't,
2 haven't been improved. So, it's the Dave Gordon
3 special.

4 And while I think we're negotiable on
5 whether you can survey students, I'd rather survey
6 students, but if the Commission wants to take that
7 out, I don't think the task force has any ambivalence
8 about parental satisfaction at all.

9 MR. LYON: My only concern, I think -- Ken
10 Lyon -- with Commissioner Hunt's concern, is that of
11 measurement under reliability of what constitutes
12 satisfaction. If we have a good model for that --

13 MR. BARTLETT: Mr. Chairman, we found
14 adequate testimony that schools that want to measure
15 parent satisfaction are fully able to do so. And
16 parents in the schools that don't were required to do
17 so by federal regs.

18 CHAIRMAN BRANSTEAD: Dr. Coulter?

19 MR. COULTER: I just wanted to reiterate
20 that both Commissioner and Commissioner Bartlett and
21 Commissioner Lyon are saying the same thing; that is,
22 any of these measures that we're talking about,

23

1 should, in fact, conform to the best science and
2 rigor, and I do think we have a science and rigor for
3 looking at satisfaction in a reliable, valid way.

4 There are also lots of poor examples. I
5 think the concept we're getting here is to assess
6 that in a rigorous manner.

7 CHAIRMAN BRANSTEAD: Are we ready to now
8 vote on the Pasternack-1, lines basically 1 through
9 11, as amended?

10 MR. BARTLETT: Mr. Chairman, I'd ask just
11 to strike or add back the parent satisfaction.

12 CHAIRMAN BRANSTEAD: Is that a friendly
13 amendment?

14 MR. PASTERNAK: I'd be happy to accept
15 that, Commissioner Bartlett.

16 CHAIRMAN BRANSTEAD: So parent
17 satisfaction is back in; student is still out; is
18 that correct?

19 MR. PASTERNAK: Yes, sir.

20 CHAIRMAN BRANSTEAD: Commissioner
21 Takemoto?

22 MS. TAKEMOTO: I'm trying to track
23

1 changes, but if someone can read the full amendments
2 before we vote, that would help me make sure that my
3 vote is the same.

4 CHAIRMAN BRANSTEAD: Since this has been
5 amended, I'd ask Commissioner Pasternack to read it
6 as it stands as of now, and then we'll proceed to a
7 vote.

8 MR. PASTERNAK: Speaking of rigor, if it
9 takes this long to go through this, we're going to
10 have rigor mortis by the end of the day.

11 But moving right along here,
12 Recommendation: Set high expectations for special
13 education and the No Child Left Behind Act
14 establishes high expectations for students with
15 disabilities on state reading and mathematics
16 assessments. IDEA should require each state to
17 establish other ambitious and conforming goals for
18 special education on such measures as graduation
19 rates, post-graduation outcomes, and rates of
20 participation in regular education settings, and
21 parent satisfaction.

22 States should also be required to define
23

1 adequate yearly progress for students and LEAs
2 towards these goals.

3 CHAIRMAN BRANSTEAD: Okay, Jay Chambers.
4 I was ready to go to a vote.

5 MR. CHAMBERS: I guess that one of the
6 thoughts as I looked through some of the other
7 comments was, there are amendments and suggestions
8 for the language of this recommendation in other
9 folks' edits.

10 I'm just wondering that, given the fact
11 that we're discussing this, wouldn't it be useful to
12 be able to review those suggestions at the same time,
13 for lines 3-11?

14 MR. JONES: I was just about to note that.
15 If you're going to break out Pasternack-1, it would
16 be appropriate to take up some other pieces such as
17 Fletcher-1.

18 CHAIRMAN BRANSTEAD: I agree that when
19 we're dealing on that section, it would be best to
20 deal with all the amendments in that section, so that
21 each Commissioner has the full array of
22 possibilities.

1 MR. PASTERNAK: Remembering my Roberts
2 Rules of Order, Mr. Chairman, I will be happy to
3 table my amendment until we hear the other
4 amendments, and then perhaps the Commission could
5 consider all of the amendments to that first
6 recommendation in toto.

7 CHAIRMAN BRANSTEAD: We'll proceed with
8 your consent. We'll proceed to the other amendments
9 that affect this section before we come back to a
10 vote on Commissioner's Pasternack's Amendment No. 1.

11 The next one is Fletcher-1. This paper,
12 we need to know where it is.

13 MR. JONES: The Fletcher amendments have a
14 paragraph at the top. You may just want to write
15 "Fletcher" at the top. It says a note from Todd
16 Jones at the top, and then the second paragraph is
17 one short sentence, Fletcher Amendments to Report.

18 At the bottom of the page, it should say
19 Amendment 1, page 1, lines 7 and 8, delete rates of
20 participation in regular education settings. Can you
21 all find that? It should be in your blue packet.

22 CHAIRMAN BRANSTEAD: In the blue packet

23

1 that was at your place.

2 MR. JONES: On the left-hand side.

3 CHAIRMAN BRANSTEAD: It starts out -- it
4 says a note from Todd Jones. That's the Fletcher-1.
5 Who is going to handle this? Dr. Coulter?

6 MR. COULTER: I had a comment on
7 Fletcher's comments, Fletcher's suggestion.

8 CHAIRMAN BRANSTEAD: I somebody going to
9 manage this amendment, since Dr. Fletcher is not
10 here?

11 MR. BARTLETT: I will, Mr. Chairman, if I
12 can find out where it goes.

13 CHAIRMAN BRANSTEAD: Beth Ann Bryan.

14 MS. BRYAN: Commissioner Bartlett, I think
15 you actually had prepared some language that will
16 take care of what Dr. Fletcher recommended here.

17 MR. BARTLETT: Mr. Chairman, if I could
18 pass these out, in the context of managing
19 Commissioner Fletcher's amendment, I think we're
20 consistent with what the task force recommended.

21 Mr. Chairman, on Amendment No. 1 in the
22 Fletcher amendment, his general comment is that he

23

1 refers to page 1, lines 7 and 8. He would delete the
2 phrase, rates of participation in regular education
3 settings.

4 The task force had a great deal of
5 controversy about this subject, and we reached what I
6 think is a consensus. No one Commissioner is
7 completely satisfied.

8 Let me propose where I think we came out.
9 Where we came out is, I think, is reflected in what
10 is entitled "Bartlett Amendment," and it says page 3,
11 but it's supposed to be page 1. It would be inserted
12 on Line 5 as a second sentence.

13 And the controversy is, everyone on the
14 task force agrees with least restrictive environment
15 and with inclusion. There is some disagreement on
16 whether that should be an outcome measurement or a
17 reporting measure.

18 I think where the task force came out is
19 something like the words I passed out, which is
20 consistent, as I recall, with what Jack Fletcher
21 advocated. In addition to the other outcome
22 measurements, while measurements of least restrictive

23

1 environments are not necessarily outcomes, per se,
2 they are important and should be measured and
3 reported at the state LEA, and, as appropriate,
4 school levels.

5 That is my memory as to what the task
6 force concluded. But it surely could be changed by
7 the Commission, or I could be in error.

8 CHAIRMAN BRANSTEAD: Commissioner Coulter?

9 MR. COULTER: Actually, Commissioner
10 Bartlett, I think your page 3, line 15, what we're
11 discussing, is out of order. I would simply submit
12 that if you read Dr. Fletcher's note very carefully,
13 on the bottom of page 1 it says that we agree these
14 data should be reported but not used as an outcome.

15 If you read carefully, the recommendation
16 on page 1, rates of participation in regular settings
17 is not listed as an outcome; it is simply one of the
18 ambitious goals. I think it should stay the way it
19 is.

20 It's not listed as an outcome in the text.
21 It say graduation rates, if you look at line 7 of our
22 original document; it says graduation rates, post-

23

1 graduation outcomes, rates of participation in
2 regular educational settings, and parent
3 satisfaction. That's what we're considering.

4 CHAIRMAN BRANSTEAD: Brian Hassel.

5 MR. HASSEL: It's true, Commissioner
6 Coulter, that the text does not say it's an outcome,
7 however, by listing it along with these other
8 measures, we would be including it in the list of
9 goals for which there would be a defined adequate
10 yearly progress, and which would then trigger action
11 by the states for LEAs to meet those goals.

12 So we're effectively saying is that it's
13 an outcome on which LEAs would be judged, and for
14 which they could be subject to corrective action.
15 Therefore, some mechanism to get it out of that list
16 and into some other list of measuring and reporting,
17 but not accountability-based measures is necessary to
18 meet what the task force agreed on.

19 Now, the rest of the Commission may have
20 other views.

21 MR. COULTER: My comment stands, as far as
22 I'm concerned. Thank you.

23

1 CHAIRMAN BRANSTEAD: Commissioner Horn?

2 MR. HORN: I'd like to echo your comments,
3 Brian. I think what we have to be very, very careful
4 of is the law of unintended consequences, and to make
5 sure that whatever one puts into a recommendation,
6 that we fully appreciate what the consequences of
7 that are.

8 As a federal administrator of \$47 billion
9 of your tax dollars, I am unfortunately quite aware
10 and have experienced situations where things have
11 been placed into statute that have had very severe
12 and unintended consequences, particularly around
13 accountability systems.

14 So I think that to remain in this section,
15 this recommendation, to put it along with the other
16 clear outcome measures, graduation rates, post-
17 graduation outcomes and so forth, that would then get
18 tied into corrective action plans and ultimately, as
19 far as I understand this document, even a takeover by
20 the Federal Government of a special education system.

21 I think you have to be very circumspect of
22 whether that it is, in fact, the kind of outcome that

23

1 we'd be interested in tying to corrective action.

2 CHAIRMAN BRANSTEAD: Commissioner

3 Bartlett?

4 MR. BARTLETT: Let me again repeat that
5 the task force was divided. There was a strong lay-
6 held view, a minority, which I shared -- I was in the
7 minority on this -- that LRE should be an outcome
8 measurement.

9 But the majority of the Commission
10 believed it should not be an outcome measure, for the
11 reasons Commissioner Horn has cited. Where the task
12 force settled was that we should measure it and
13 report it, and to say that it is important, but not
14 to make it an optimal outcome measurement.

15 That seemed to me to be a satisfactory
16 compromise, although not one that I would have
17 favored on a freestanding basis. I will say for the
18 record that the problem is that the states are not
19 under the current system of merely reporting. That's
20 why we added public reporting, LEA-level, school-
21 level.

22 The states are not taking it seriously.

23

1 The states range from an 80-percent inclusion to an
2 18-percent inclusion. No one can seriously contend
3 that an 18-percent inclusion rate in a state is
4 satisfactory.

5 Whether you report it or hold it
6 accountable as an outcome, it is not satisfactory, so
7 no one on the task force believes that the current
8 system is adequate.

9 We want to increase emphasis on it. Our
10 concept of increasing the reporting and saying it's
11 important, but saying it's not necessarily an
12 outcome, the words, per se, were carefully chosen.

13 Some of us think it was an outcome
14 measure. Some of us think it's not. So it's not an
15 outcome measure, per se.

16 CHAIRMAN BRANSTEAD: Commissioner Coulter?

17 MR. COULTER: I just want to reiterate,
18 once again, as you read the words, it does say
19 ambitious goals. It does not say outcomes.

20 I think Commissioner Horn, all of his
21 examples are exactly what I mean. These are
22 important goals.

1 Whether you want to call them outcomes or
2 not, we didn't call it an outcome in this
3 recommendation; we said an ambitious goal. I think
4 Dr. Bartlett's data that he just reported, speaks for
5 itself.

6 CHAIRMAN BRANSTEAD: Ed Sontag.

7 MR. SONTAG: Thank you, Governor. We've
8 been chasing LRE as a community for a long time. It
9 came to us out of the Pennsylvania part in some
10 degree.

11 I've been around too long where our
12 institutions are reported as the least destructive
13 environment. I think that by clearly establishing as
14 a standard, as an outcome measure, we'll meet the
15 test that I think the Congressman so clearly
16 articulated.

17 CHAIRMAN BRANSTEAD: Commissioner
18 Chambers?

19 MR. CHAMBERS: Mr. Chairman, I guess I am
20 concerned when I link ambitious goals with rates of
21 participation. I'm in favor of measuring them.

22 I think rates of participation in regular
23

1 education are important. But this sort of suggests
2 or implies that 100 percent is the ideal.

3 And in some instances, there are parents
4 who would prefer that it not be 100 percent. There
5 may be a more optimal rate of participation, as much
6 as I might support that.

7 So I think that if we could say measures,
8 and not talk about ambitious goals, it might help
9 keep the measure in the recommendation. But the
10 implication that 100 percent is the optimal level --

11 CHAIRMAN BRANSTEAD: Commissioner Gordon?

12 MR. GORDON: What if you wrote it so as to
13 divide the question, and said something like
14 ambitious and important goals for special education
15 on such outcome measures as graduation rates? And
16 then qualify and say and such indicators as rates of
17 participation.

18 So you would peg the others clearly as
19 outcomes, and have that as an indicator, meaning you
20 would count and measure it, but not necessarily make
21 it actionable, as Commissioner Horn said.

22 CHAIRMAN BRANSTEAD: Let me just ask, is
23

1 Commissioner Gordon's suggestion something that would
2 be accepted as a friendly amendment?

3 MR. BARTLETT: Mr. Chairman, for
4 clarification, in addition to that, you'd then add
5 this additional language that says it's important?

6 MR. GORDON: In the text.

7 MR. BARTLETT: In addition to Amendment
8 No. 1? I would be inclined to accept that. Again,
9 it's not going to be perfect, but I'm inclined to
10 accept that kind of language as a way of achieving a
11 consensus on the Commission.

12 It won't satisfy everyone, but it's
13 important that we make a strong statement that rates
14 of participation are currently in many states, not
15 acceptable. They don't seem to be adequately
16 measured, and they're not driving performance, and so
17 we want that to happen.

18 I think there is a good case that could be
19 made, that some would say it's not an outcome, per
20 se, and I think that Commissioner Gordon's friendly
21 amendment would improve that.

22 CHAIRMAN BRANSTEAD: As a point of
23

1 clarification, is this to go into page 1 or page 3?

2 MR. BARTLETT: Page 1.

3 CHAIRMAN BRANSTEAD: Okay. Commissioner
4 Bryan?

5 MS. BRYAN: Let me go back to what
6 Commissioner Horn said just a minute ago about making
7 sure that we don't put in some unintended
8 consequences. I'm thinking very practically about
9 this language, and if it were to become law.

10 As someone who is a practitioner and dealt
11 with children in special education, I have had
12 instances where I wanted children to be able to go
13 out and get an a hour a day of intensive reading
14 instruction, separately, out of the classroom, from
15 someone who really knew what they were doing.

16 I was told by the school that they could
17 not do that, because they would violate least
18 restrictive environment. In other words, we can't
19 give the child the serious instruction he needs
20 because we're trying to get our least restrictive
21 environment up.

22 I think that's the kind of unintended
23

1 consequence that we've got to think about when we
2 write language, that we suddenly don't make, as
3 Commissioner Chambers said, 100 percent the goal,
4 when, in fact, for some children, it's not the goal,
5 and it's actually not helpful.

6 We need to give ourselves some wiggle
7 room. We need to know the data, but we don't need to
8 make it a goal for every child, 100 percent under
9 every circumstance.

10 CHAIRMAN BRANSTEAD: Commissioner
11 Takemoto?

12 MS. TAKEMOTO: I think that in our
13 discussions, we heard from members of the deaf
14 community, that they wanted to make sure that this
15 doesn't keep them from being able to have deaf
16 communities. We heard from the LV community that
17 there is research to support small class sizes or
18 small intervention groups to help remediate reading
19 instruction.

20 However, we heard from many families of
21 children with significant disabilities; we heard from
22 those students; we saw those students shunted into
23

1 the back rooms, in the dark corners of schools, and
2 many are not in school.

3 I'm wondering -- we're primarily talking
4 about, as Dr. Sontag mentioned, the Pennsylvania
5 students, where students who had been excluded before
6 there was an IDEA, and I'm wondering if perhaps Mr.
7 Bartlett would accept an amendment that said,
8 particularly for students with severe disabilities.

9 Those are the students who, by reason of a
10 physical characteristic or mental retardation or
11 autism or behavior, have been shunted aside with no
12 research to support that kind of placement. Many of
13 us have professional and personal experiences with
14 the damage that's caused when people, by virtue of
15 the fact of their label or category, are sent to the
16 back rooms and left to flounder.

17 CHAIRMAN BRANSTEAD: Commissioner
18 Chambers?

19 MR. CHAMBERS: I would like to see some
20 language introduced, whether it's here or in the
21 text, in recognition of what Dr. Bryan was saying.
22 LRE, to the extent possible and reasonable, and with

23

1 the recognition of the desire of parents.

2 I don't think we can just assume -- and
3 again, I want to get away from the notion that 100
4 percent is our goal here -- as much as we all might
5 prefer children be included or involved in the
6 regular settings and participate in regular programs
7 as much as possible, that just may not be the
8 appropriate or reasonable setting, and parents
9 themselves may not desire that.

10 We need to recognize the desires of the
11 parents. We're talking about parent satisfaction.

12 CHAIRMAN BRANSTEAD: Commissioner
13 Bartlett?

14 MR. BARTLETT: Mr. Chairman, I can accept
15 that in the text, but in context. There are two side
16 to that coin: The one side is 100 percent is not the
17 goal; we all stipulated that, but, I assume, Mr.
18 Chambers, that neither is 28 percent in the case of
19 the State of Texas.

20 There may be some reason that an
21 individual student should be in a pullout, but 28
22 percent of the students shouldn't be in segregated

23

1 classrooms in the State of Texas. So if we put in
2 that Texas shouldn't be 100 percent; we should also
3 put in that it shouldn't be 28 percent, and that we
4 are, as a Commission, dissatisfied with the current
5 emphasis in some states on the rate of inclusion or
6 the rate of LRE.

7 So, yes, I think we can improve the text,
8 but let's improve it the right way.

9 MR. HORN: I think the Bartlett amendment
10 strikes a nice balance, as currently written. What
11 it suggests is that this is an important thing to
12 measure.

13 They set out a sentence, which, in my
14 view, if this were a statute, would clearly indicate
15 that it's time for a corrective action plan, and
16 ultimately actions on the part of the Federal
17 Government, or some kind of punitive actions.

18 It seems to me that this discussion is
19 precisely the discussion we're having, because it's
20 not so clearly, as the others are, an outcome
21 measure. We all agree that 100 percent graduation
22 rate is something we should be moving toward.

23

1 We all agree that 100 percent good post-
2 graduation outcomes, however those might be defined,
3 is a good thing to do. We all agree that 100 percent
4 of parents should be satisfied with their experience
5 in special education.

6 I'm not sure we all agree, and, in fact,
7 it seems that we all don't agree that 100 percent of
8 children in special education should be 100 percent
9 of the time in regular classrooms.

10 Given that, it seems to me, the Bartlett
11 amendment strikes a very nice balance that says that
12 this is something very important to measure, yet at
13 the same time, takes it out of any confusing language
14 that would suggest it's tied to corrective action --

15 CHAIRMAN BRANSTEAD: Reid Lyon?

16 MR. LYON: I think the data that's just
17 been handed out suggests, as well as the discussion
18 does, a previous interpretation of least restrictive
19 environment. It seems to me that whether we add this
20 language or not, the degree of percentage by which
21 kids are in the least restrictive environments should
22 be driven by the evidence that suggests it's the most

23

1 effective for that particular kid.

2 I think Commissioner Bartlett's amendment
3 is a good balance, but I would also say, where
4 appropriate and supported by the scientific evidence,
5 realizing we don't have that now, but as a stimulus
6 to begin to look at more objectives ways to determine
7 which environments are most appropriate for which
8 kids.

9 CHAIRMAN BRANSTEAD: Commissioner Huntt?

10 MR. HUNTT: Thank you, Mr. Chairman. I was
11 just wondering why we couldn't put a period after
12 post-graduation outcomes on line 7 and then insert in
13 the Bartlett amendment, in addition, measurements of
14 least restrictive environment and parental
15 satisfaction are necessarily outcomes, per se, but
16 they are important.

17 That, I think, would get to the heart of
18 it, because you're talking about two specific
19 outcomes, and then you're talking about two different
20 measurements that should be reported.

21 MR. BARTLETT: Commissioner Huntt, I feel
22 pretty strongly that parental satisfaction is an

23

1 outcome that can be measured, and we do want 100
2 percent parent satisfaction. We might like to get
3 it. We'd like 100 percent of Congressional
4 satisfaction, too. We may not get it, but we should
5 try.

6 I think that inclusion is an outcome, but
7 the majority of the task force didn't agree, and
8 perhaps the majority of the Commission. I'm willing
9 to take that, out, per se, but I think that saying
10 what we're trying to say is it's not necessarily
11 outcomes, per se, and saying their important, I think
12 that strikes the right balance.

13 CHAIRMAN BRANSTEAD: Commissioner Fleming?

14 MR. FLEMING: I was going to hold my
15 story, because when I heard Commissioner Takemoto
16 talk about a particular child, just last week, I did
17 a commencement of special education in which there
18 were eight graduates. And in order to even go
19 through that graduation, there were students that
20 could not stop movement, and so they had to be
21 seated, and that required another person to keep them
22 from falling out of the chairs.

1 We're talking about parent satisfaction
2 without really giving the serious attention to how
3 much that least restrictive environment will call
4 into other staff to be part of that. That's the part
5 there that I again agree with the Commissioners that
6 have literally tried to separate parent satisfaction
7 from student satisfaction.

8 CHAIRMAN BRANSTEAD: Commissioner Sontag?

9 MR. SONTAG: I would support Congressman
10 Bartlett's amendment. As to the bottom line,
11 personally I think we have to be incredibly careful.
12 LRE is a fundamental concept. If we do anything in
13 terms of our rhetoric that undermines that principle,
14 the rest of this report could be written in sand, for
15 the impact it's going to have.

16 This is a big issue, and if we begin to
17 deal with issues that we've dealt with 25 or 30 years
18 ago, this report is going to be in big trouble. We
19 should not in any way undercut the LRE standard, and
20 we're beginning to hear some testimony to that
21 effect.

22 CHAIRMAN BRANSTEAD: Dr. Coulter?

23

1 MR. COULTER: Mr. Chairman, once again, I
2 need to be tutored, possibly, but I would move that
3 we strike from the current text on lines 7 and 8,
4 rates of participation in regular settings, and that
5 we insert at line 10, Commissioner Bartlett's
6 sentence that's in front of us.

7 MR. BARTLETT: Second.

8 CHAIRMAN BRANSTEAD: We have a motion and
9 a second. This is a substitute, essentially.

10 MR. BARTLETT: For clarification, do you
11 accept Commissioner Gordon's friendly amendment,
12 earlier?

13 MR. GORDON: Mine would become
14 unnecessary, if we did it this way.

15 CHAIRMAN BRANSTEAD: This is being done as
16 a substitute to your original proposal; is that
17 right, Commissioner Bartlett?

18 MR. BARTLETT: Added on line 10 and
19 striking LRE from line 7, but adding it back in line
20 10, yes.

21 CHAIRMAN BRANSTEAD: Commissioner Hassel?

22 MR. HASSEL: Do you accept Dr. Lyon's

23

1 amendment to your amendment, if appropriate?

2 MR. COULTER: That's not my motion.

3 CHAIRMAN BRANSTEAD: Would you read your
4 motion and we'll proceed to vote on that.

5 MR. COULTER: Let me see if I can repeat
6 it, because I can't read it. I move that on lines 7
7 and 8, we strike the words, rates of participation in
8 regular education settings, and that we insert at
9 line 10, Commissioner Bartlett's sentence, which
10 reads, in addition, while measurements of least
11 restrictive environment are not necessarily outcomes,
12 per se, they are important and should be measured and
13 reported at state LEA, and, as appropriate, at the
14 school levels. That's my motion.

15 CHAIRMAN BRANSTEAD: Everybody understands
16 that? We've had a lot of discussion. Mr. Huntt will
17 accept that.

18 MR. HUNTT: Now that we understand what
19 the motion is, the only way I would be able to accept
20 it is if we could add Commissioner Lyon's amendment
21 to it. I think it is appropriate to have that kind
22 of input.

23

1 CHAIRMAN BRANSTEAD: Do you want to offer
2 that? The way I have ruled on this is that it's a
3 substitute amendment. It could be amended, if
4 somebody chose to offer an amendment to the
5 amendment. Commissioner Takemoto?

6 MS. TAKEMOTO: I'm wondering -- I'm going
7 to the back part of the text that describes what it
8 is that we need here. And as I listen to Dr. Lyon
9 and Dr. -- I was thinking that perhaps we need to
10 work on amended language on page 9 in the discussion
11 of what the problem is.

12 There should be no confusion. This is not
13 to be confused with the fact that we expect 100
14 percent of students in a less restrictive
15 environment, nor do we intend for students to not be
16 in different settings, if there is evidence that
17 support such settings.

18 However, the arbitrary placement of
19 students in segregated settings is not what the
20 Commission intends. But put it in the back as a
21 clarifying -- just to clarify what we mean, and also
22 to support the fact that there are students for whom
23

1 evidence supports the placement in what's called more
2 restrictive settings. But for Dr. Lyon and Dr.
3 Bryan, they would consider it to be an appropriate
4 setting.

5 MR. LYON: The least restrictive
6 environment is that which is most beneficial or
7 effective for the child, irrespective of its
8 inclusionary status, if you will.

9 CHAIRMAN BRANSTEAD: That can be gone over
10 when we get to that section. We're right now at the
11 beginning of it.

12 Are we ready to vote on this amendment
13 that Dr. Coulter has proposed with the concurrence of
14 Commissioner Bartlett? If so -- Commissioner Rivas?

15 MR. RIVAS: I'm still concerned, and I'm
16 here taking in the comments from Commissioners Horn
17 and Bryan about the wording, and trying to avoid the
18 100 percent and the least restrictive environment,
19 because you do have some of these children. They do
20 need the intensive teaching, but then you also have
21 some students -- and I was listening to a report the
22 other day where they're in a situation, in a least-

23

1 restrictive environment, and they're being made fun
2 of by the other students, which can have some serious
3 consequences.

4 I'm just concerned. I don't want it to be
5 that we're going to force these kids into a situation
6 and it's going to have some serious consequences, not
7 just for that year, but for their lifetimes.

8 CHAIRMAN BRANSTEAD: I think that the
9 amendment really avoids that situation. That's
10 really what the amendment is designed to do, is to
11 reinforce that there is a difference between the
12 outcome measures and the goals that are being set on
13 the least-restrictive environment.

14 I think they're separate, but it doesn't
15 do damage to the overall goal on the least
16 restrictive environment, but it doesn't put it into a
17 situation where this is some kind of enforceable
18 thing, if they fail to meet 100 percent.

19 Dr. Pasternack?

20 MR. PASTERNAK: Thank you, Mr. Chairman.
21 I will try to be brief. I just want to remind the
22 Commissioners of a couple of things:

23

1 Number one, we currently collect data on
2 Category 1, which is the percentage of students with
3 disabilities who spend 80 percent or more of their
4 time in a general education setting.

5 What Commissioner Lyon has so aptly
6 pointed out is the fact that we don't have any data
7 indicating whether that makes a difference in the
8 results that we accomplish for those kids.

9 As a research item, when we get to that
10 section, I hope we can get some language to talk
11 about the need for us to have some research on that.
12 In other words, right now, we don't connect the dots
13 between setting and outcome.

14 I know we had a lot of discussion with
15 Commissioner Bartlett.

16 MR. BARTLETT: Setting is an outcome.
17 We're not going to discuss that. Just, secondly, to
18 respond to Commissioner Rivas's comments, these are
19 individual decisions that are made by an IEP team
20 with the parent, with the student, with the
21 multidisciplinary team present, to really try to
22 balance the concept of least restrictive environment

23

1 with the concept of most appropriate placement for an
2 individual child.

3 So I think the amendment that Commissioner
4 Coulter has proposed, based on Commissioner
5 Bartlett's language, would hopefully be the balance
6 that we're trying to achieve here.

7 CHAIRMAN BRANSTEAD: Okay.

8 MR. PASTERNAK: A point of order: Do ex
9 officio members get to vote? I don't believe we do.

10 CHAIRMAN BRANSTEAD: You get to
11 participate in the discussion and offer amendments,
12 but not vote. It's like the President of the Iowa
13 Senate didn't get a vote, either, except to break
14 ties. So I'm familiar with those kinds of things.
15 Yes?

16 MR. CHAMBERS: Is it possible to get this
17 entire recommendation to be read back to us? I don't
18 think that there are any others that I can see,
19 recommendations for changes, or are there?

20 CHAIRMAN BRANSTEAD: I would ask Dr.
21 Coulter, read it again, and then we will proceed to a
22 vote. The whole thing.

23

1 MR. JONES: There is one other amendment
2 still on the table. It's the tabled Pasternack
3 amendment which goes to this first recommendation.
4 Other than that, there are no other recommendations
5 or suggestions to change this section.

6 CHAIRMAN BRANSTEAD: Okay, Dr. Coulter, do
7 you want to read it?

8 MR. COULTER: I move that on lines 7 and
9 8, we strike the words, rates of participation in
10 regular education settings, and that we add at line
11 10, the sentence, in addition, while measurements of
12 least restrictive environment are not necessarily
13 outcomes, per se, they are important and should be
14 measured and reported at state LEA and, as
15 appropriate, the school levels.

16 CHAIRMAN BRANSTEAD: All in favor of that
17 motion, signify by saying aye.

18 (Chorus of ayes.)

19 CHAIRMAN BRANSTEAD: Opposed?

20 (Chorus of nays.)

21 CHAIRMAN BRANSTEAD: It is approved.

22 MR. GORDON: Just for clarification, in
23

1 the line where it says parent and student
2 satisfaction, it's my understanding that we took out
3 student satisfaction but left in parent satisfaction.

4 MR. PASTERNAK: That goes back the
5 amendment that's been tabled, Commissioner Gordon,
6 which we will now take up.

7 CHAIRMAN BRANSTEAD: That's correct. The
8 next amendment in order is Dr. Pasternack's first
9 amendment, which we deferred in order to take up the
10 one we just passed. We'll go back to that.

11 It deals with the issue that Commissioner
12 Gordon just raised.

13 MR. PASTERNAK: Move adoption of my
14 amendment.

15 VOICE: Second.

16 CHAIRMAN BRANSTEAD: We have a motion and
17 a second to approve the Pasternack amendment. Is
18 there any discussion on that?

19 (No response.)

20 MR. JONES: Governor?

21 CHAIRMAN BRANSTEAD: Do you want to read
22 it? Let's read it so that everybody understands it.

23

1 MR. PASTERNAK: I have forgotten it.

2 (Laughter.)

3 MR. PASTERNAK: It was to take out
4 student satisfaction. Do you want me to read it
5 again?

6 CHAIRMAN BRANSTEAD: Would you, please?

7 MR. PASTERNAK: How about if I pick it up
8 from line 8, which would now read -- actually, I'll
9 go to line 9: States should also be required to
10 define adequate yearly progress for students and LEAs
11 towards these goals. That was the change we had made
12 there.

13 And in line 8, as Commissioner Gordon
14 pointed out, we scratched student and just went with
15 parent satisfaction.

16 CHAIRMAN BRANSTEAD: It still includes
17 "and conforming," correct?

18 MR. PASTERNAK: Yes, it does.

19 CHAIRMAN BRANSTEAD: Is everyone clear on
20 that? We are now ready to proceed with the
21 Pasternack first amendment, as amended. As you know,
22 it's already been amended, as has just been pointed

23

1 out.

2 If there is no further discussion, all in
3 favor of that motion, signify by saying aye.

4 (Chorus of ayes.)

5 CHAIRMAN BRANSTEAD: Opposed?

6 (No response.)

7 CHAIRMAN BRANSTEAD: It is approved.

8 We're starting to move here.

9 (Laughter.)

10 CHAIRMAN BRANSTEAD: The next amendment in
11 order is Pasternack on this alternate chart that was
12 handed out. This is the larger-print one.

13 Page 1, line 19, big print, Dr.
14 Pasternack?

15 MR. PASTERNAK: Thank you, Mr. Chairman.
16 Just some clarification here. On line 19, as you all
17 see, it would read -- a new sentence would be added
18 at the end of the paragraph, which would say: If not
19 currently possible, states must work quickly to
20 establish a system that can disaggregate data.

21 If we get a second to the amendment --

22 CHAIRMAN BRANSTEAD: Is there a second?

23

1 VOICES: Second.

2 MR. HUNTT: Second.

3 CHAIRMAN BRANSTEAD: We have it seconded
4 by Commissioner Hunt.

5 MR. PASTERNAK: Just very quickly, we've
6 heard testimony that we don't have the data systems
7 in states that we need. This was just language that
8 would help to recognize that and encourage states to
9 work very quickly to establish those kinds of data
10 systems, so that we can disaggregate the data that we
11 are asking them to disaggregate.

12 CHAIRMAN BRANSTEAD: Any discussion on
13 that?

14 MR. BARTLETT: Mr. Chairman?

15 CHAIRMAN BRANSTEAD: Commissioner
16 Bartlett. I'm sorry to be so piggy on my task force
17 recommendation, but I am.

18 My question, Mr. Secretary, is, is your
19 goal here to say that states have to act fast? Is
20 that the goal?

21 MR. PASTERNAK: Yes.

22 CHAIRMAN BRANSTEAD: Dr. Coulter?

23

1 MR. COULTER: I would argue in favor of
2 the amendment, because I think what we have said and
3 what has also been presented to us in testimony is
4 that when data are shared, especially with the
5 public, it increases the accountability of public
6 systems.

7 And I think that what this amendment does
8 is to encourage states not to hide information, but,
9 in fact, to build systems that produce the most
10 accurate information possible. I would like to speak
11 in favor of this amendment.

12 CHAIRMAN BRANSTEAD: Is there further
13 discussion?

14 (No response.)

15 CHAIRMAN BRANSTEAD: Dr. Pasternack, would
16 you like to make any further remarks?

17 MR. PASTERNAK: No, Mr. Chairman.

18 CHAIRMAN BRANSTEAD: We'll proceed to a
19 vote. All in favor of this amendment of Dr.
20 Pasternack's -- I guess this is the second amendment
21 -- all in favor, signify by saying aye.

22 (Chorus of ayes.)

23

1 CHAIRMAN BRANSTEAD: Opposed?

2 (No response.)

3 MS. TAKEMOTO: Abstain.

4 CHAIRMAN BRANSTEAD: It is approved.

5 We're now back to the Pasternack first
6 amendment, which was subdivided. We're on line 15.
7 It was originally 13-22, and now it's 13-23. We've
8 just added this new amendment to that section.

9 MR. PASTERNAK: Mr. Chairman, just back
10 to the other item --

11 CHAIRMAN BRANSTEAD: The new language is
12 the underlined language, correct?

13 MR. PASTERNAK: Knowing how well all the
14 Commissioners read, unless the need exists, I'll
15 defer and we can just move the adoption of the
16 language.

17 CHAIRMAN BRANSTEAD: Dr. Coulter?

18 MR. COULTER: I'd like to move adoption of
19 this amendment.

20 CHAIRMAN BRANSTEAD: We've got motion; is
21 there a second?

22 VOICES: Second.

23

1 CHAIRMAN BRANSTEAD: Commissioner Fleming,
2 did you have a comment?

3 MR. FLEMING: I was seconding.

4 CHAIRMAN BRANSTEAD: We have a motion and
5 a second. Commissioner Bartlett?

6 MR. BARTLETT: I have what I think is a
7 concern, but I'd like to hear it explained a little
8 bit further. The last sentence on line 22, the
9 sentence that says accountability requirements,
10 performance requirements, which seems to imply,
11 wholly replace, it doesn't say it, but it says would
12 replace the existing process-based accountability
13 systems.

14 While that's clearly the direction we were
15 going, we were dealing with a paperwork reduction in
16 another section, and it seems to me that we should be
17 a bit more careful than just simply a wholesale
18 replacement of all process-based accountability
19 systems.

20 I'm not arguing in favor of process, but I
21 am arguing that we say process and some people hear
22 civil rights. So I'm concerned about adding that

23

1 sentence. I think we should act much more
2 thoughtfully, slowly, incrementally, to say let's
3 institute accountability systems. Let's set up a
4 system where the Secretary can draft waivers of
5 process-based requirements in exchange for output-
6 based requirements.

7 One sentence wipes out what many believe
8 is 25 years of civil rights protections, and I'm not
9 contending that that's necessarily accurate, but
10 there is some truth to that, and I think that it's
11 probably a bridge too far.

12 CHAIRMAN BRANSTEAD: Commissioner Horn?

13 MR. HORN: Commissioner Bartlett, I share
14 that concern, and wonder whether you could maintain
15 the sentence by inserting, after these requirements,
16 would, to the maximum extent practical and feasible,
17 or some sort of language that allows someone later
18 on, in implementing this thing, to be able to use
19 some judgment in terms of the extent to which this
20 replaces the process-oriented system.

21 CHAIRMAN BRANSTEAD: Commissioner

22 Takemoto?

23

1 MS. TAKEMOTO: I would ask Commissioner
2 Pasternack to table that language amendment and
3 consider it along with the amendment in the OSEP
4 report that talks about that paperwork and OSEP's
5 role. We do have -- I can't remember the specific
6 text, I do know that in the OSEP report, that there
7 is some discussion about accountability for results,
8 versus process.

9 And I think that text belongs in that
10 section, but this recommendation really says that we
11 want to hold LEAs accountable. I think that in the
12 next section we talk about how, and I would recommend
13 that we talk about the "how" in that section and not
14 in this recommendation.

15 CHAIRMAN BRANSTEAD: Commissioner Coulter?

16 MR. COULTER: I'd like to offer a friendly
17 amendment to Dr. Pasternack, that would say, as I
18 believe Commissioner Horn just suggested, these
19 requirements would, to the maximum extent possible,
20 replace existing process-based accountability
21 systems.

22 Let me, if I might, speak to why I'm

23

1 offering that: This section is about LEA
2 accountability. We, in the section beginning on page
3 12, talk about the role of the Office of Special
4 Education Programs and state education agency
5 accountability.

6 I think it's clearly the intent that that
7 accountability model, which focuses -- and we do use,
8 by the way, the verb, "replace" -- we are talking
9 about accountability for outcomes that reach all the
10 way down to the individual-child level.

11 And I think that to stop short of saying
12 just hold states accountable and not local education
13 agencies accountability, sends the wrong message. I
14 do want to -- I think my friendly amendment provides
15 some caution in anybody misinterpreting this as a
16 wholesale replacement of one for the other.

17 I also don't believe that it says anything
18 about due process in here, but I think the spirit of
19 what I'm saying is, to the maximum extent possible,
20 we are talking about changing the frame by which
21 people judge whether special education is working.

22 That is not that you simply go through the
23

1 steps and have good intentions; we are talking about
2 changing outcomes so that they are satisfactory.

3 MR. BARTLETT: Will the gentleman yield?

4 MR. COULTER: Yes.

5 MR. BARTLETT: Would the gentleman
6 consider an addition to clarify? From my
7 perspective, adding the words, in addition, to the
8 maximum extent feasible, adding the words, while
9 fully retaining the full civil rights protections of
10 IDEA.

11 MR. COULTER: Yes, I would.

12 CHAIRMAN BRANSTEAD: That's accepted as an
13 addition to the friendly amendment. Are you
14 accepting a friendly amendment with these changes?

15 MR. PASTERNAK: Yes.

16 CHAIRMAN BRANSTEAD: From Dr. Coulter and
17 Dr. Bartlett?

18 MR. PASTERNAK: Yes, Mr. Chairman. I
19 just wanted to be very clear. In all the comments
20 that I've made during these six months, we clearly
21 are not ever going to consider turning back from the
22 fundamental civil rights that people have worked so

23

1 hard to get into the current version of the law.

2 My intent here was that there has only
3 been one witness that's come in front of this
4 Commission three times, and that's been the Secretary
5 of the U.S. Department of Education. Dr. Paige was
6 very clear that his intent for our Department is to
7 move from the culture of compliance with process to a
8 culture of performance.

9 So this was just an attempt on my part to
10 add some language in there to reinforce that
11 excellent testimony that our Secretary has provided
12 on more than one occasion.

13 CHAIRMAN BRANSTEAD: Dr. Coulter?

14 MR. COULTER: Commissioner Bartlett, I'm
15 running a little slow this morning. Could you repeat
16 your friendly, friendly amendment?

17 MR. BARTLETT: Adding a comma at the end
18 of the sentence on line 23; while fully retaining the
19 civil rights protections of IDEA. I just realized
20 that I had "fully" in there twice.

21 CHAIRMAN BRANSTEAD: Read the whole thing
22 back, Dr. Coulter, with your changes, and with

23

1 Commissioner Bartlett's change.

2 MR. COULTER: Mr. Chairman, I move that on
3 line 22 of Commissioner Pasternack's suggested
4 amendment, that we modify the sentence to read:
5 These requirements would, to the maximum extent
6 possible, replace existing process-based
7 accountability systems, while fully retaining the
8 civil rights protections of the Individuals With
9 Disabilities Education Act.

10 CHAIRMAN BRANSTEAD: That's moved and
11 second by Commissioner Fleming. All in favor of that
12 friendly amendment to Dr. Pasternack's amendment,
13 signify by saying aye.

14 (Chorus of ayes.)

15 CHAIRMAN BRANSTEAD: Opposed?

16 (No response.)

17 CHAIRMAN BRANSTEAD: It is approved.

18 We'll now proceed to a vote on -- unless there's
19 further discussion -- on Dr. Pasternack's amendment.
20 Commissioner Hunt?

21 MR. HUNTT: Mr. Chairman, just a point of
22 clarification. I would hope that all of our

23

1 amendments have that gospel to it, that in no way are
2 we eroding the civil rights protections already
3 present in IDEA.

4 CHAIRMAN BRANSTEAD: I think that's the
5 spirit.

6 MR. HUNTT: I don't know if we have to
7 state it or not.

8 CHAIRMAN BRANSTEAD: I don't know how many
9 times it has to be stated in the document, but I thin
10 that Dr. Pasternack very eloquently pointed out that
11 that is the commitment of the Secretary and of the
12 Department.

13 MR. HUNTT: Perhaps we may want to make
14 mention of that in our introduction, that in the
15 spirit of what we're doing here, in no way are we
16 trying to erode the civil rights already provided
17 under IDEA. Thank you.

18 MR. BARTLETT: Could we throw in the great
19 and glorious state of Iowa?

20 (Laughter.)

21 CHAIRMAN BRANSTEAD: Whatever's fair. Is
22 there further discussion?

23

1 (No response.)

2 CHAIRMAN BRANSTEAD: All in favor of Dr.
3 Pasternack's amendment, as amended, signify by saying
4 aye.

5 (Chorus of ayes.)

6 CHAIRMAN BRANSTEAD: Opposed?

7 (No response.)

8 CHAIRMAN BRANSTEAD: It is approved; thank
9 you. We now go to Dr. Berdine's Amendment No. 1 and
10 Fletcher-3. Can we take those together, Berdine-1
11 and Fletcher-3?

12 MR. JONES: The second bold sentence,
13 William Berdine. Let me make a note that all
14 previously-submitted amendments are in your blue
15 folder on the left-hand side.

16 CHAIRMAN BRANSTEAD: Commissioner
17 Takemoto?

18 MS. TAKEMOTO: Because of the volume of
19 Dr. Pasternack's amendments, it would help me if
20 someone would be willing to put those three pieces
21 into one piece, so I'm not looking at his three
22 amendments, three packages, plus everybody else's.

23

1 That would just help me with this paper here. We
2 can't do that? Okay.

3 CHAIRMAN BRANSTEAD: We are now in this
4 Berdine amendment. There is also Fletcher-3.

5 MR. JONES: Jack Fletcher would add the
6 word, "to," to make the sentence more understandable.
7 On the original draft, it is line 22, IDEA would
8 allow states to use.

9 Commissioner Berdine is offering a
10 completely alternative version of that sentence.

11 MR. BARTLETT: Mr. Chairman, I'll carry
12 the Berdine amendment.

13 CHAIRMAN BRANSTEAD: Are you moving the
14 Berdine amendment?

15 MR. BARTLETT: For purposes of discussion.

16 CHAIRMAN BRANSTEAD: Is there a second?

17 MR. COULTER: Second.

18 CHAIRMAN BRANSTEAD: Second by Dr.
19 Coulter. We have the Berdine amendment before us for
20 purposes of discussion.

21 MR. BARTLETT: Mr. Chairman, I would add a
22 friendly amendment, without objection, since I'm

23

1 carrying Commissioner Berdine's amendment, which was
2 suggested by Commissioner Bryan, which I agree with.
3 And that is, after the words, schools, that is in
4 either version, to enable students with disabilities
5 to attend schools, add the words, or to access
6 services.

7 The reason for that is because in line 3
8 it says schools, and in line 2, and so for purposes
9 of discussion, in either case, we want to allow them
10 to attend schools or access services. That makes it
11 consistent with No Child Left Behind, which I think
12 was the task force's intent. We didn't get all the
13 words in.

14 CHAIRMAN BRANSTEAD: So you would add, or
15 access services?

16 MR. BARTLETT: I'd accept my own friendly
17 amendment.

18 (Laughter.)

19 CHAIRMAN BRANSTEAD: Is there a second to
20 that? Dr. Gordon?

21 MR. BARTLETT: I suppose I'd inquire of
22 the Commission that it does strike me that Dr.

23

1 Berdine has given us better wording, it seems to me.
2 I don't see a substantive change, other than just a
3 wording change. I think it is more direct in words.

4 CHAIRMAN BRANSTEAD: If this one is
5 accepted, then the other one, the Fletcher amendment,
6 would be out of order. Okay. Do Commissioners all
7 believe that this is a better word choice? Is there
8 further discussion? Are we ready to vote on this as
9 amended with a friendly amendment that added, or
10 access services, after, schools?

11 (No response.)

12 CHAIRMAN BRANSTEAD: If there is no
13 further discussion, all in favor on this motion, as
14 it's been amended, signify by saying aye.

15 (Chorus of ayes.)

16 CHAIRMAN BRANSTEAD: Opposed?

17 (No response.)

18 CHAIRMAN BRANSTEAD: It is approved. With
19 the approval of this amendment, Fletcher-3 would be
20 out of order. Hassel No. 1 is the next amendment.
21 We recognize Commissioner Hassel for his amendment.

22 MR. HASSEL: The third recommendation on

23

1 parental empowerment and school choice has two key
2 ideas in it: One is providing information to
3 parents; the other is providing them with choices.
4 It seems to me that the information points should
5 come first.

6 It's a broader point. It delves into all
7 kinds of decisions parents would make, and the choice
8 points come second. That's the only thing that this
9 amendment does.

10 CHAIRMAN BRANSTEAD: Is there a second?

11 MR. BARTLETT: Second.

12 CHAIRMAN BRANSTEAD: Seconded by the
13 chairman of this task force, Commissioner Bartlett.
14 Discussion?

15 (No response.)

16 CHAIRMAN BRANSTEAD: All in favor of that
17 amendment, signify by saying aye.

18 (Chorus of ayes.)

19 CHAIRMAN BRANSTEAD: Opposed?

20 (No response.)

21 CHAIRMAN BRANSTEAD: It is approved. The
22 next amendment is Takemoto No. 1.

1 MR. BARTLETT: Mr. Chairman, I have an
2 amendment that was not filed, but it's being
3 prepared. It's one sentence. It's being prepared.
4 When we get to the third recommendation --

5 CHAIRMAN BRANSTEAD: I stand corrected.
6 The Takemoto amendment is not in order yet. What's
7 the next one in the proceeding?

8 MR. JONES: It's your discretion. He
9 doesn't have a written one, but it applies to this
10 section.

11 CHAIRMAN BRANSTEAD: This would
12 essentially be different than the procedure that I
13 announced at the beginning of our deliberations. But
14 with the consent of the Commissioners, the Chair of
15 the task force has an amendment that's not been
16 submitted in writing.

17 With your consent, I would at this time
18 recognize Commissioner Bartlett for an amendment in
19 this section.

20 MR. BARTLETT: Mr. Chairman, thank you for
21 allowing me to proceed out of order. This amendment
22 was brought to my attention this morning by some of

23

1 the task force members. I believe they are correct,
2 as far as the intent of the task force, but I'm going
3 to read it slowly and let the Commission determine
4 it.

5 It would be added as a new sentence on
6 line 26, as the next to the last sentence of the
7 recommendation, right after the words, children's
8 education, and before the words, parents should.
9 This is a new sentence.

10 We're talking here about parental
11 empowerment. It does seem to be about what the task
12 force intended, that, consistent with No Child Left
13 Behind, IDEA funds should be available for parents to
14 choose services and/or schools, particularly for
15 parents whose children are in schools who have not
16 made adequately yearly progress for three consecutive
17 years.

18 This was widely discussed, to have the
19 IDEA track the No Child Left Behind, so that if the
20 school fails its adequate yearly progress for three
21 consecutive years, one of the results is that parents
22 can choose either a different school or a different

23

1 service, at their choice, consistent with IDEA,
2 consistent with No Child Left Behind.

3 The additional -- and it's not addressed
4 in this paragraph -- we can sort of talk about before
5 and after, but not here. The question is, what do we
6 do -- what are parents given the right to do with a
7 school that has failed for three years -- a failed
8 school?

9 No Child Left Behind said they had the
10 right to take their federal funds and go elsewhere,
11 either with other services or with another school.
12 This sentence adds that, and, right now, it's nowhere
13 else in the report that. It says consistent with No
14 Child Left Behind, IDEA funds should be available for
15 parents to choose services, and/or schools,
16 particularly for parents whose children are in
17 schools who have not made adequate yearly progress
18 for three consecutive years.

19 CHAIRMAN BRANSTEAD: Is there a second to
20 that amendment?

21 MR. HUNTT: Second.

22 CHAIRMAN BRANSTEAD: There is a second

23

1 from Commissioner Hunt. Discussion?

2 (No response.)

3 CHAIRMAN BRANSTEAD: If there is no
4 discussion, we'll proceed to a vote. The vote is to
5 add the sentence that Commissioner Bartlett has just
6 read. All in favor, signify by saying aye.

7 (Chorus of ayes.)

8 CHAIRMAN BRANSTEAD: Opposed?

9 MS. TAKEMOTO: Abstain.

10 CHAIRMAN BRANSTEAD: It is approved; thank
11 you.

12 MR. JONES: The next one up would be
13 Takemoto-1.

14 CHAIRMAN BRANSTEAD: The next amendment is
15 Takemoto-1.

16 MS. TAKEMOTO: This amendment is being
17 offered to incorporate the discussion around
18 preventing disputes and providing dispute resolution.
19 In previous versions, we have jumped to binding
20 arbitration as the first fix.

21 I'm sorry, my apologies to the
22 Commissioners. This is the piece that says

23

1 accountability on top. No name. If you could put my
2 name on it, so that you're not confused about which
3 one to pick up. Sorry for not catching that.

4 It starts with accountability, and it
5 says, number one, page 2, lines 1 through 6. That
6 really should have been 4 through 6. Did people find
7 that? Okay.

8 This is consistent with our discussion
9 that we start with early dispute resolutions, as Dr.
10 Gordon suggested that we do. So what I would add is
11 a new sentence. I wasn't watching clearly last
12 night.

13 A new sentence on line 6, before it says,
14 permit parents, would read: Requires states to
15 develop early process that avoid conflict and promote
16 IEP agreements such as IEP facilitators, which was
17 Dr. Gordon's language that we discussed in our task
18 force. That would be the first sentence.

19 The second sentence would be what's now
20 the last sentence. I'm trying to offer this in order
21 of how we would prefer that things happen.

22 That, first, we'd try to avoid conflict

23

1 and promote agreement; second, you would require
2 states to make mediation available, anytime it is
3 requested, and not when request for a hearing has
4 been made. So I would not change that language.

5 Then the third would be to permit parents
6 and schools to enter binding arbitration and assure
7 that mediators, arbitrators, and hearing officers are
8 trained in conflict resolution and negotiation.

9 The third point, after my own thinking
10 through this, I'm not certain that binding
11 arbitration is the way to go, but I am deferring to
12 the discussion that we already had. And I'm not
13 going to contest that third line.

14 CHAIRMAN BRANSTEAD: Is there a second to
15 this amendment?

16 MR. BARTLETT: Second for purposes of
17 discussion.

18 CHAIRMAN BRANSTEAD: We have a motion and
19 a second. Commissioner Bartlett?

20 MR. BARTLETT: Commissioner Takemoto, if I
21 could just kind of go through it slowly, to make sure
22 that we've all got it, it does look, on the surface,

23

1 to be consistent with the discussions at the task
2 force. You would first require that states develop
3 early processes to avoid conflicts and promote IEP
4 agreements, including IEP facilitators.

5 So, that's the first addition. Second, I
6 assume that you intend to say that you require states
7 to make mediation available, instead of medication.
8 Some of us would want to have the medication also.

9 (Laughter.)

10 MS. TAKEMOTO: The Commissioner has it all
11 wrong. I did mean medication.

12 (Laughter.)

13 MR. BARTLETT: We almost had them. So
14 that would make mediation available. That is simply
15 a reorder, so everything else is reorder. So the add
16 that requires states to develop early processes and
17 avoid conflict, that's the add? Everything else is
18 reorder. I'd accept the amendment.

19 CHAIRMAN BRANSTEAD: We have a motion and
20 a second. Is there further discussion?

21 (No response.)

22 CHAIRMAN BRANSTEAD: All in favor of the
23

1 amendment, signify by saying aye.

2 (Chorus of ayes.)

3 CHAIRMAN BRANSTEAD: Opposed?

4 (No response.)

5 CHAIRMAN BRANSTEAD: The ayes have it; the
6 amendment is approved.

7 The next amendment is Fletcher-5.

8 (Pause.)

9 It delete lines 24 through 29 on page 2;
10 is that right?

11 MR. BARTLETT: Mr. Chairman, before we
12 move to the text, I have one additional amendment on
13 the third recommendation.

14 CHAIRMAN BRANSTEAD: Commissioner
15 Bartlett?

16 MR. BARTLETT: Mr. Chairman, this would be
17 a new recommendation, designed to clarify what I
18 believe the task force intended. But I heard over
19 the course of the last two weeks, some dispute as to
20 whether we intended to recognize the continued
21 importance of public schools, so if there is any
22 dispute, just like there's any dispute about civil
23

1 rights, we ought to clarify it.

2 I just had this typed and drafted up this
3 morning. It's called No. 3. It would add a
4 recommendation that would state: The majority of
5 special education students will, of course, continue
6 to be in the regular public school system. It
7 doesn't say "regular," but it should have -- in the
8 regular public school system, consistent with No
9 Child Left Behind, the focus of accountability shall
10 be to ensure that those schools document and be held
11 accountable for special education student performance
12 in those schools.

13 Mr. Chairman, since I have passed out an
14 imperfect draft, I would be happy to get it edited
15 and brought back after the Hassel amendment, if you'd
16 like, or I can read it.

17 CHAIRMAN BRANSTEAD: I think the change is
18 pretty minor. Just go ahead and read it. This is
19 what is labeled Memo 3. Go ahead.

20 MR. BARTLETT: The majority -- and this is
21 in response to those that had concerns that we were
22 not emphasizing sufficiently, regular public

23

1 education: The majority of special education
2 students will, of course, continue to be in the
3 regular public school system. Consistent with No
4 Child Left Behind, the focus of accountability shall
5 be to ensure that those schools document and be held
6 accountable for special education student performance
7 in those schools.

8 So, while we earlier accepted the concept
9 that if funds go to a private school or to a charter
10 school, those private charter schools will also have
11 to be held to the accountability standard. Now we're
12 going to back and saying that the focus of the
13 Department shall continue to be on accountability
14 within the public school system.

15 CHAIRMAN BRANSTEAD: Is there a second to
16 that amendment?

17 MR. HORN: Second.

18 CHAIRMAN BRANSTEAD: There is a second to
19 the amendment. Commissioner Horn?

20 MR. HORN: To get to the same intent, it
21 seems to me that -- let me say it this way: What if
22 the majority of the public schools are doing a lousy

23

1 job on special education students? Would you still
2 be in favor of keeping the majority of students in
3 public schools?

4 It seems to me that what you're trying to
5 make a statement on is that -- is that it is
6 anticipated that the majority of special education
7 students will continue to be in public schools, as
8 opposed to setting it out in concrete that a majority
9 will be.

10 What we want to do is make sure that
11 special education kids are getting a good education,
12 that they are getting good outcomes, rather than
13 artificially saying that a majority of them will have
14 to still be in public education, public schools.

15 MR. BARTLETT: I accept that as a friendly
16 amendment. It is anticipated that --

17 CHAIRMAN BRANSTEAD: You're just accepting
18 that as a friendly amendment, incorporating that into
19 your amendment, right?

20 MR. BARTLETT: Yes.

21 CHAIRMAN BRANSTEAD: We'll take that by
22 consent then. Commissioner Hassel?

23

1 MR. HASSEL: I don't really dispute the
2 empirical point being made here, but I guess I don't
3 see a recommendation here. All the recommendations
4 we're making primarily apply to the public schools
5 system. I think that's clear. I don't see why we
6 need to say that again, or make a recommendation that
7 doesn't really have any kind of recommendation in it.

8 What are we suggesting here that Congress
9 would act on or the President would act on or the
10 Department of Education would act on? It doesn't
11 seem to me to have any force.

12 CHAIRMAN BRANSTEAD: Commissioner Bryan?

13 MS. BRYAN: Commissioner Hassel, what I am
14 concerned about is that we make it very clear to the
15 public that for all of those children that are in the
16 regular public school system, remain in the regular
17 public school system, that there is going to be a
18 real focus on accountability for the gains for those
19 children, that it gets restated so that is very clear
20 that the primary answer is to make sure we have
21 accountability systems in place for those children in
22 those circumstances, that we're not going to back off
23

1 on.

2 CHAIRMAN BRANSTEAD: Okay. Is there
3 further discussion? Commissioner Chambers?

4 MR. CHAMBERS: I guess I'm torn a little
5 bit. I guess I'm wondering if it is a recommendation
6 or just a principle that we are trying to live by?

7 MS. BRYAN: I think it's a recommendation,
8 that we make sure that that focus is there.

9 CHAIRMAN BRANSTEAD: Dr. Coulter?

10 MR. COULTER: I think I understand what's
11 being raised. I would just ask Commissioner Bartlett
12 to consider that should this sentence be the first.
13 If you go to page 1, if I'm reading this correctly,
14 page 1, Recommendation: Hold LEAs accountable for
15 results, would you accept that possibly these two
16 sentences should become the first two sentences of
17 that recommendation? You'll have to pardon me for
18 just a second. I need to go back to my original.

19 That would be page 1. Line 12 would read:
20 It is anticipated --

21 MR. BARTLETT: I accept, not to replace
22 anything in Recommendation 2, but to add it.

1 MR. COULTER: Yes.

2 CHAIRMAN BRANSTEAD: Does everybody
3 understand that now? It's really putting this in a
4 different place; this is what you're doing. That is
5 right on page 1, at the beginning of that section.
6 It would be the first sentence.

7 MR. COULTER: Line 12. What Commissioner
8 Bartlett has offered would become the first two
9 sentences of that paragraph.

10 CHAIRMAN BRANSTEAD: Are we ready to vote
11 on this?

12 (No response.)

13 CHAIRMAN BRANSTEAD: I see no objection,
14 so we're ready to take a vote. All those in favor of
15 the amendment in the placement that Dr. Coulter has
16 just shared with us -- this is the Bartlett amendment
17 that was labeled Memo-3 -- with the changes that have
18 already been made in that, in the location that Dr.
19 Coulter has pointed out, all those in favor of the
20 amendment signify by saying aye.

21 (Chorus of ayes.)

22 CHAIRMAN BRANSTEAD: Opposed?

23

1 (No response.)

2 CHAIRMAN BRANSTEAD: It is approved. Now
3 we got to Commissioner Hassel's amendment.

4 MR. HASSEL: Dr. Fletcher had made several
5 comments that the section that starts on page 2,
6 about setting high expectations and holding LEAs
7 accountable, lacks focus and structure and is
8 repetitive.

9 I apologize for doing this, but I tried to
10 rewrite that section. I have proposed a different
11 setup. It doesn't repeat the actual text, verbatim,
12 of recommendations, but it encompasses all of them
13 and lays them out in a kind of logical flow, point-
14 by-point, so I'd like to move that we replace lines -
15 - I'll get my own amendment here before me -- page 2,
16 line 24 in the original, through page 5, line 7, with
17 the text that I propose. I think you need some time
18 to have a look at it.

19 CHAIRMAN BRANSTEAD: Does everyone have a
20 copy of this? We have a motion by Commissioner
21 Hassel.

22 MR. COULTER: Second.

23

1 CHAIRMAN BRANSTEAD: Seconded by
2 Commissioner Coulter. We'll give you an opportunity
3 to read this over, this new language, and you should
4 all have this amendment before you. It's about four
5 pages long.

6 (Pause.)

7 CHAIRMAN BRANSTEAD: Commissioner
8 Takemoto?

9 MS. TAKEMOTO: Dr. Hassel, I'd just like a
10 point of clarification. Perhaps we can move a long
11 with this a little bit more quickly.

12 When you wrote your revisions, did you
13 consider Dr. Fletcher's amendments?

14 MR. HASSEL: Yes.

15 MS. TAKEMOTO: So these, to your
16 knowledge, incorporate a multitude of edits that Dr.
17 Fletcher so meticulously added to the report?

18 MR. HASSEL: At least those that apply to
19 this part, his general comment about a lack of focus.

20 MS. TAKEMOTO: Okay.

21 (Pause.)

22 MR. BARTLETT: Would the gentleman accept
23

1 a friendly amendment? The last paragraph on the
2 first page, the third line, it's similar to what you
3 said. You use the word, mirroring. Perhaps a better
4 phrase would be consistent with, because you don't
5 want it to be identical. There are differences.

6 MR. HASSEL: Yes.

7 CHAIRMAN BRANSTEAD: That's accepted as a
8 friendly amendment. This is on that first page, the
9 last paragraph, the third line up where it says
10 mirroring. Instead, that would say consistent with,
11 right before the initials and CLB and IDEA. So
12 that's accepted as a friendly amendment.

13 Are we ready for discussion on this, or is
14 there need for additional time to read it?

15 (No response.)

16 CHAIRMAN BRANSTEAD: Commissioner
17 Takemoto?

18 MS. TAKEMOTO: I would like to call the
19 question, so that we can move forward, so we can get
20 moving here.

21 CHAIRMAN BRANSTEAD: I just wanted to make
22 sure that people had the time to read it. If there

23

1 is no objection, we'll just proceed. Commissioner
2 Gordon?

3 MR. GORDON: I just have one modest
4 suggestion on the very last sentence, in the section
5 where it says they do not do so for long. I would
6 change that to something like swift correction action
7 will be taken, because that's kind of speculation.

8 CHAIRMAN BRANSTEAD: Swift corrective
9 action would be taken. That would replace: They do
10 not do so for long.

11 MR. GORDON: Correct.

12 CHAIRMAN BRANSTEAD: After that comma?

13 MR. HASSEL: That's fine.

14 CHAIRMAN BRANSTEAD: That's accepted as a
15 friendly amendment. Is there any other discussion on
16 this amendment, Hassel-2?

17 (No response.)

18 CHAIRMAN BRANSTEAD: If not, we'll proceed
19 to a vote on it.

20 MR. BARTLETT: Mr. Chairman? The second
21 from the last paragraph of this section, in cases of
22 consistent failure

1 CHAIRMAN BRANSTEAD: Right.

2 MR. BARTLETT: Commissioner Hassel, I'm
3 not sure that in cases of consistent failure -- it
4 seems to me that in cases of consistent failure, IDEA
5 should allow for a direct federal oversight, whether
6 or not there has been dramatic corrective action. If
7 they have consistent failure, I don't really want to
8 put a modifying clause as to whether IDEA allows
9 direct federal oversight.

10 CHAIRMAN BRANSTEAD: So you're asking,
11 even after dramatic corrective action?

12 MR. BARTLETT: It doesn't mean that we
13 don't want to take dramatic corrective action, but I
14 certainly don't want the Department of Education and
15 the states to be arguing about whether they took
16 dramatic action or didn't take dramatic action. If
17 they have consistent failure, they ought to take
18 action.

19 CHAIRMAN BRANSTEAD: Is that accepted as a
20 friendly amendment?

21 MR. HASSEL: What about in cases of
22 consistent failure beyond the timeframe of these

23

1 state actions? What we want to get away from is the
2 federalists step in before the states have acted.

3 MR. COULTER: Repeat that.

4 MR. HASSEL: In cases of consistent
5 failure beyond the timeframe of state actions.

6 MR. BARTLETT: I can accept that.

7 CHAIRMAN BRANSTEAD: Now, what we've got
8 is in cases of consistent failure beyond the
9 timeframe of state actions, then the deletion of even
10 after dramatic correction action. Yes, Commissioner
11 Horn?

12 MR. HORN: Bob, is the Department of
13 Education prepared to take on this responsibility to
14 provide oversight for thousands of LEAs around the
15 country?

16 MR. PASTERNAK: I'll have to get back to
17 you on that, Commissioner Horn. I'm reluctant to
18 speak for the Department on that issue.

19 I would tell that, given the testimony
20 that we heard, that was initiated by Dr. Sontag's
21 request, a number of FTE and OSEP are dramatically
22 less at this moment than they were earlier, and if

23

1 we're going to add even more responsibility to OSEP,
2 we need to look at the capacity of that component of
3 our organization to be able to do an additional
4 amount of work on the 15,000 school districts and
5 240,000 schools.

6 CHAIRMAN BRANSTEAD: I recognize Todd
7 Jones.

8 MR. JONES: I do have to make one comment
9 on what Bob has said. There is a technical
10 correction in the draft here. We have gotten data
11 from the Office of General Counsel and the Budget
12 Office, indicating that there are actually more staff
13 engaged in monitoring now than for any time for which
14 they have records which do go back to the first
15 Reagan Administration.

16 The language about inadequate support has
17 been modified, just to clarify that that is not the
18 case. There are now more staff monitors, but
19 monitoring is still inadequate.

20 MR. PASTERNAK: I'm sorry I brought it
21 up. I think the answer to your question is no, in my
22 opinion.

23

1 MR. COULTER: I think the wording here is
2 clear in its intent, and, if, in fact, this is what
3 Congress wants, then I think Congress will have to
4 act in a way to increase the capacity of the
5 Department of Education, but I think the
6 Commissioners are sending a very clear message: You
7 either correct your behavior and produce results, or
8 things will happen, and these are one of the things
9 that would, in fact, happen.

10 CHAIRMAN BRANSTEAD: Commissioner Sontag?

11 MR. SONTAG: Just a small point of
12 clarification: I think the issue that I raised
13 originally, or the statement that I was credited with
14 was that the overall staffing pattern in OSEP had
15 gone down.

16 And the response was, we have more people
17 on monitoring, so I want to make sure we're not
18 talking about chickens and eggs here.

19 CHAIRMAN BRANSTEAD: Commissioner Horn?

20 MR. HORN: This is a little atypical when
21 it comes to the kinds of consequences that the
22 Federal Government imposes in cases of noncompliance,

23

1 or when the services that are being provided are not
2 up to federal standards.

3 In most cases, at least that I'm familiar
4 with, there is oversight that is supposed to direct
5 administration of a program by the Federal
6 Government. So, for example, in child welfare, if we
7 have a new system of reviews in child welfare, where
8 the state consistently fails those, what happens then
9 is that there is a financial penalty that's placed on
10 the state.

11 The idea is that the state is motivated to
12 avoid that financial penalty by, in fact, having a
13 system that makes sense and is effective and
14 efficient. I'm not aware -- there may be, but I'm
15 not aware, at least in my purview -- of situations
16 where, in the case of consistent failure, the Federal
17 Government is going to move in and actually
18 administer the program.

19 I'm not at all, Commissioner Coulter,
20 saying that there ought not to be a significant and
21 important consequence for consistent failure. I
22 support the recommendations in this draft report for

23

1 providing parents with vouchers in the face of
2 consistent failure.

3 But I'm just wondering whether or not the
4 Department of Education has the capacity to go in and
5 actually administer a special education program or
6 programs all around the country. That's not the
7 intent of this. I need to know what direct federal
8 oversight actually means.

9 MR. COULTER: I think we received
10 testimony, perhaps at a hearing that you were not
11 attending, from advocates who basically have done an
12 analysis of the Department's monitoring efforts in
13 the past. And one of their recommendations was that
14 the Federal Government, in those instances of
15 egregious failure and lack of a state to be able to
16 make IDEA work at the local level, that, in fact,
17 directed use of funds, the direction coming from the
18 Federal Government, will be an appropriate
19 intervention.

20 I think that's why Brian wrote it in this
21 particular way, because of the testimony that we
22 received. We also received testimony on the almost
23

1 total failure of the Federal Government to ensure
2 that IDEA is being fully implemented in any state.

3 It is clear that we're trying to do
4 something unprecedented here.

5 MR. HORN: Would the Commissioner yield
6 for a second? I don't disagree with that at all.
7 I'm just saying that, for example, in just about
8 every other system I know, run by the Federal
9 Government, the ideas -- what the concept would be is
10 that the Federal Government would step in and
11 actually run that program, for example, for the
12 Federal Government to go in and to run, to take over
13 the child welfare system in the State of South
14 Carolina or the State of New York. That would
15 require an enormous amount of resources, which, if
16 one is aware of the way that appropriations are done
17 in the Federal Government, you just can't hire a
18 whole set of new people to take over a system.

19 So if the intent is not to take over the
20 system, what is the intent here? It's just unclear.

21 MR. COULTER: Once again, let me direct
22 your attention to the text. It says: Including the

23

1 direction of federal special education spending, at
2 the discretion of the U.S. Secretary of Education;
3 that's what it says. It doesn't say anything about
4 the Federal Government's sending a bunch of Dr.
5 Pasternacks down to South Dakota or whatever to run
6 things.

7 Pardon me, Commissioner Sontag says, to
8 Iowa to run special education. It's talking about
9 the direction, including the direction of Federal
10 Special Education spending after discretion.

11 CHAIRMAN BRANSTEAD: Those aren't
12 necessarily federal employees, is what you're saying.

13 MR. COULTER: That's correct.

14 CHAIRMAN BRANSTEAD: They may be directing
15 the way the money is being spent.

16 MR. COULTER: That's what it says.

17 MR. HORN: I hate to belabor this point,
18 but it says "including." That means it's not
19 exclusive of other kinds of options. That's the
20 direction of federal special education spending.

21 That's not what we're concerned about. It
22 is where it says IDEA would allow for direct federal

23

1 oversight, and the direct federal oversight with the
2 only modifier isn't including, which does not exclude
3 some expectation that the Federal Government will, in
4 fact, send Commissioner Pasternacks down and actually
5 run the program and take over the IDEA program in a
6 school district in Pennsylvania.

7 MR. COULTER: It could be.

8 MR. HORN: That's an extraordinary
9 extension of federal power in this area. It also has
10 an extraordinary consequence in terms of resources
11 appropriated by Congress. It's not at all clear to
12 me that the Federal Government doing something really
13 lousy is better than the local education agency doing
14 something really lousy.

15 The idea is to try to actually make the
16 system work. It seems to me that the consequence
17 ought to be one that is a workable consequence, as
18 opposed to one that could, in fact, cause additional
19 difficulties.

20 CHAIRMAN BRANSTEAD: Commissioner
21 Bartlett?

22 MR. BARTLETT: Mr. Chairman it seems to me

23

1 that this text -- and I really commend Commissioner
2 Hassel for his dramatic reworking of this text --
3 it's a narrative that really flows from the
4 recommendation. This is in some ways at the heart of
5 what happens if children are being left behind after
6 we've tried everything else.

7 It seems to me that we're saying No Child
8 Left Behind, and that means no child left behind, not
9 no child, unless it gets really painful.

10 Let me observe what the recommendations
11 say, and what this text says is the final dramatic
12 action: First, it's consistent with No Child Left
13 Behind, which does provide for federal direction of
14 federal funds. It's also consistent with federal
15 action under extraordinary circumstances involving
16 civil rights.

17 IDEA is at the beginning, a civil rights
18 bill; it's also an education bill. It does provide
19 for no additional spending. What it acknowledges is
20 that there are billions of dollars in federal dollars
21 today that are being misspent or not spent at all,
22 and achieving no or little discernable results.

23

1 Others are, but in many cases, they are
2 not, so let me walk through the litany of what the
3 accountability section says, as currently drafted,
4 that's consistent with Commissioner Hassel's
5 description: It says that first we're going to give
6 a parent a IEP and some additional facilitation
7 process to achieve opportunities.

8 Second, we're going to require the school
9 and the LEA and the state to report on their results
10 publicly, in a way that is down to the schoolhouse
11 level, so that the public then begins to enforce it.
12 Third, enforcement is technical assistance, so
13 Secretary Pasternack is required to send technical
14 assistance, if the school simply can't get the
15 result.

16 Fourth is vouchers for parents to take
17 their children elsewhere. Fifth is the state
18 takeover of an LEA for their special education fund,
19 to see if the state can get it right.

20 So it's only after the school and the LEA
21 fails on all five corrective actions, only in that
22 circumstance do we say, well, there are still
23

1 children there that are being left behind, and only
2 under those extraordinary circumstances would we use
3 the money that is otherwise being sent to the school
4 with a blank check, and use their own money to direct
5 their programs until we can show they how to get it
6 right. I think this is a perfectly appropriate
7 section, in fact, far clearer than what the original
8 text was.

9 CHAIRMAN BRANSTEAD: Commissioner Gordon?

10 MR. GORDON: I think that in the case of
11 the staffing part of the implication of this is to
12 get people away from doing this purposeless
13 monitoring. This is a much more purposeful use of
14 people's time from the Federal Government, or the
15 state, for that matter. It think that's implied.

16 CHAIRMAN BRANSTEAD: Dr. Coulter.

17 MR. COULTER: Mr. Chairman, I'd like to
18 call the question. Let's go.

19 CHAIRMAN BRANSTEAD: If there is no
20 further discussion, we'll proceed to a vote.

21 MR. HUNTT: I have a discussion point, I'm
22 sorry. I haven't had the chance to comment on it

23

1 yet.

2 The overall intent is to hear from all the
3 Commissioners.

4 CHAIRMAN BRANSTEAD: That's right. I
5 would just as soon -- I go to Commissioner Huntt and
6 not accept a motion to call the question. I hate to
7 call the question if we don't have to. Commissioner
8 Huntt, go ahead.

9 MR. HUNTT: Thank you. I was trying to be
10 polite and not step on anybody earlier. I think the
11 overall concern of Commissioner Horn is that the
12 consequence isn't directly stated. There is already
13 federal oversight in IDEA, which this indicates,
14 again.

15 But I think, overall, what we're trying to
16 say is that at the discretion of the Secretary of
17 Education, after corrective action, if there is not
18 improvement, the Secretary can withhold funds or
19 redirect funds; is that correct? Isn't there a way
20 to state the corrective action more succinctly? I
21 think that's what Commissioner Horn was getting at.

22 CHAIRMAN BRANSTEAD: Dr. Coulter?

23

1 MR. COULTER: I think what we are saying
2 here is that it's not just the use of funds, and I
3 think Commissioner Horn is correct. We're saying
4 that we want whatever actions are necessary, and they
5 might, in fact, include additional actions.

6 MR. HUNTT: Then state it, please. Right
7 now, it's not stated clearly, what the discretion of
8 the Secretary is. I think that's the point that's
9 trying to be made. Can we restate it so that it's
10 more succinctly said?

11 CHAIRMAN BRANSTEAD: Does anybody have
12 suggestions on language here?

13 MR. BARTLETT: Mr. Chairman, you could add
14 the words, in case of consistent failure, after all
15 other actions have been tried. I'm not sure of what
16 goes before that, but I think that's consistent with
17 what we said, that we're going to try the first five
18 first.

19 CHAIRMAN BRANSTEAD: Would that be
20 acceptable, Commissioner Hunttt?

21 MR. HUNTT: I think what I'm saying is, in
22 cases of consistent failure after corrective action,

23

1 the U.S. Secretary of Education can take further
2 corrective action by redirecting funds or
3 reallocating funds. You're saying no?

4 MR. BARTLETT: If everything else has
5 failed, then you have to have federal direction. If
6 you've tried everything else, we can continue to
7 monitor them.

8 I think we're saying directly, if
9 everything else has failed, then you have to try
10 direct federal oversight.

11 CHAIRMAN BRANSTEAD: Dr. Coulter?

12 MR. COULTER: And the words should allow
13 for direct federal oversight. I think what's being
14 implied there, once again, you know, is a wide range
15 of actions that could be elected. We're not trying
16 to specify, in detail, what all those actions would
17 be. What we're trying to say is, in the face of
18 failure, the Federal Government needs to take
19 responsibility for making certain that this act is
20 enforced. We're not trying to delimit or even denote
21 all of the things that could be developed.

22 I think we've heard a lot of testimony on
23

1 different things, and in the text of our report, we
2 even talk about assigning a monitor in the part of
3 the Federal Government, to ensure that the state
4 follows through.

5 We've described lots of things. This is
6 purposefully general in order to create flexibility
7 for the Secretary of Education to take whatever
8 action is necessary.

9 CHAIRMAN BRANSTEAD: Commissioner Hassel?

10 MR. HASSEL: Let me try a slightly
11 different wording to this, to see if it accommodates
12 the concerns. IDEA should allow for direct federal
13 intervention, including, but not limited to
14 withholding or redirecting federal special education
15 spending, at the discretion of the U.S. Secretary of
16 Education.

17 So it allows for, and that means that it's
18 up to the Secretary to decide, and it's clear that
19 it's a menu of possibilities, not one answer.

20 CHAIRMAN BRANSTEAD: Do you accept that as
21 a friendly amendment? Okay, that's accepted as a
22 friendly amendment.

1 I'm going to have Todd read that back.

2 MR. JONES: Here's what I have as the
3 amendment in that paragraph. It would now read: In
4 cases of consistent failure beyond the timeframe of
5 state actions, IDEA should allow for direct federal
6 oversight, including but not limited to the direction
7 of state special education spending, at the
8 discretion of the U.S. Secretary of Education.

9 CHAIRMAN BRANSTEAD: Intervention, rather
10 than oversight. Intervention replaces oversight.
11 Okay, now, does everybody understand it now? It has
12 been accepted as a friendly amendment. We're ready
13 to vote. We have deferred so that everybody has had
14 a chance to have their say.

15 I think that was an improvement, and it
16 was well worth it. All in favor of the amendment,
17 signify by saying aye.

18 (Chorus of ayes.)

19 CHAIRMAN BRANSTEAD: Opposed?

20 (No response.)

21 CHAIRMAN BRANSTEAD: It is approved; thank
22 you very much. We're now ready to go to Huntt

23

1 Amendment No. 1.

2 MR. HUNTT: I should have been quiet.

3 MR. COULTER: Call the question.

4 (Laughter.)

5 MR. SONTAG: Point of clarification, Mr.
6 Chairman.

7 CHAIRMAN BRANSTEAD: Commissioner Sontag?

8 MR. SONTAG: Earlier, I think we had a
9 call for the question. It's my understanding -- it
10 goes back awhile, but are we not into a two-thirds
11 vote required, if the question is called?

12 CHAIRMAN BRANSTEAD: I think it does take
13 a two-thirds vote to cut off debate. I have just not
14 recognized those motions, because what I have done is
15 ask the people that made the motion -- I said at the
16 beginning that we're going to try to give every
17 Commissioner an opportunity to have their say.

18 I know it has taken some time, but I think
19 we've been able to make some clarifications, and
20 maybe avoid some problems by doing it that way. I
21 prefer not to cut off debate, if I don't have to. It
22 would be my preference -- and we have a history in

23

1 the Iowa State Senate of never calling the question
2 and never suspending the rules.

3 I would prefer not to have to call the
4 question or suspend the rules, because I think that
5 will facilitate everybody feeling that it's a fair
6 and open process, and they are not being cut off.

7 MR. SONTAG: That was the intent of my
8 clarification. A two-thirds vote sometimes takes
9 longer than finishing the debate.

10 CHAIRMAN BRANSTEAD: That's the reason why
11 I have asked, and people have been pretty
12 understanding so far. I would ask your continued
13 indulgence. We recognize Commissioner Huntt for his
14 amendment.

15 MR. HUNTT: Thank you, Mr. Chairman. Page
16 5, Footnote 1, I made the recommendation to delete
17 specifically the comment: We are, particularly and
18 most especially, concerned about children with
19 disabilities in foster care settings. This relates
20 to transition.

21 I believe our overall concern, most
22 particularly and most especially, is regarding low
23

1 graduation rates, unemployment, lack of access to
2 higher ed, so I disagreed with the premise that our
3 most important or most particular concern is children
4 in subcategories, kids with disabilities in
5 subcategories.

6 VOICE: Second.

7 CHAIRMAN BRANSTEAD: We've had a motion
8 and a second. Discussion?

9 MS. TAKEMOTO: As an advocate for students
10 in foster care, I agree that we should not say we are
11 especially concerned. When we say this, we mean
12 children in foster care, but I would request that we
13 retain language that acknowledges that students in
14 foster care do have terrible outcomes, but I would
15 agree that we wouldn't put what we intend in the
16 footnote. We just mention that we would like to note
17 that. Would that work for you?

18 MR. HUNTT: I believe, Mr. Chairman, that
19 we noted it in a further section with regard to this
20 population, so I think it may be somewhat redundant
21 in this particular footnote. I don't think, again,
22 that the most particular and special concern here is

23

1 regarding that particular population, specifically.

2 But I agree with Commissioner Takemoto
3 that we should make mention that this is a group
4 that's under-served, and make that somewhere in the
5 body of our presentation, but not in this part.

6 CHAIRMAN BRANSTEAD: Commissioner
7 Takemoto?

8 MS. TAKEMOTO: I wanted to defer to the
9 memory of the Chair of this particular task force,
10 and I think what the writers tried to do was
11 incorporate, somehow incorporate this, and I'm not
12 sure that I have done it, so I need some help from
13 you, Mr. Bartlett, on this.

14 That we were thinking through -- I mean,
15 people think those students with severe disabilities
16 or low-incidence disabilities, and so there was some
17 discussion from our task force on intent about just
18 saying that we consider this particular group of
19 concerns, but not necessarily at the expense of
20 everybody else.

21 It's just that we haven't paid sufficient
22 attention. I think it's clear that we haven't paid

23

1 sufficient attention to kids in foster care.

2 CHAIRMAN BRANSTEAD: Commissioner

3 Bartlett?

4 MR. BARTLETT: I'm not certain I recall
5 the discussion about foster care. I think that was
6 an area that we had some concern about. I'm not sure
7 where it is in the report.

8 I think of Mr. Hunttt, who is kind of our
9 expert on transition services, sort of felt like it
10 didn't belong here. Perhaps the right wording is to
11 take the second sentence of the footnote and insert
12 it up on line 8 or something like that -- not the
13 first sentence, but the second sentence.

14 MR. HUNTT: I think, primarily, Mr.
15 Chairman --

16 CHAIRMAN BRANSTEAD: Go ahead.

17 MR. HUNTT: This particular footnote is
18 related to transition, so I just didn't think that
19 this particular footnote fit where it's at, not only
20 the first sentence, but the entire footnote probably
21 isn't a good fit in this committee's report.

22 Commissioner Bartlett, I don't know if you

23

1 disagree with that or not.

2 CHAIRMAN BRANSTEAD: Is this dealt with in
3 the transition section? Commissioner Takemoto?

4 MS. TAKEMOTO: This particular discussion
5 -- again, foster care and transition, right now are
6 footnotes in the transition. It's not specifically
7 mentioned, what this is saying. I don't know why
8 it's in a footnote, but what it's saying is that when
9 the President gave us your charge, he said we don't
10 want you to just think about special education; we
11 want you think about full system accountability.

12 This is really saying that we are going
13 beyond IDEA to think through how systems fit for kids
14 with disabilities.

15 MR. BARTLETT: Mr. Chairman, I have a
16 suggestion, if Commissioner Huntt would be agreeable.
17 I do think that Commissioner Takemoto is correct.

18 We should say something about foster care
19 and the juvenile justice system. I think you'll find
20 that it shouldn't be footnoted to transition, so
21 perhaps if we add a paragraph on line 22 in the text,
22 that takes the entire footnote, but loses the words,

23

1 in particular and most especially, and everything
2 else would go.

3 We are concerned about children with
4 disability in foster care settings and so forth,
5 which states that we're concerned about foster care
6 and that urge intergovernmental, interagency
7 agreements. And that's what Commissioner Takemoto
8 was trying to say.

9 I think it deserves to be in the body of
10 the text, not in a footnote, and it deserves to be in
11 its total, not simply a transition. I don't think
12 any of us see juvenile justice facilities in a
13 transition.

14 CHAIRMAN BRANSTEAD: Dr. Coulter?

15 MR. COULTER: I'm losing track now. I'm
16 assuming this is Commissioner Huntt's. Would you
17 accept that, instead of saying in foster care
18 settings, say children with disability in the child
19 welfare system? It goes beyond just kids in foster
20 care.

21 MR. HUNTT: Yes, that, in conjunction with
22 Commissioner Bartlett's amendment.

1 CHAIRMAN BRANSTEAD: So, Commissioner
2 Bartlett has made a motion that incorporates also
3 Commissioner Coulter's suggestion. Why don't you
4 read back, combining the two friendly amendments?

5 MR. BARTLETT: Mr. Chairman, this would go
6 in a new paragraph, line 22, page 5. We're concerned
7 about children with disabilities in the child welfare
8 system and the juvenile justice system, and encourage
9 state agencies with authority over the direction and
10 expenditure of federal and state funds under IDEA and
11 other relevant authorities to develop interagency
12 agreements to ensure continued alternative education
13 services, including the full continuum of services as
14 provided for under IDEA. I think that's a good add.

15

16 CHAIRMAN BRANSTEAD: That's moved and
17 seconded as a friendly amendment to the Hunt
18 amendment. Commissioner Takemoto?

19 MS. TAKEMOTO: Consistent with Dr.
20 Coulter's suggestion that foster care be child
21 welfare, I would suggest that it says child welfare
22 instead of foster care. At the end it says --

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17

MR. BARTLETT: I accept that.

1 CHAIRMAN BRANSTAD: Does everybody
2 understand what's we have before us now? We'll
3 proceed on a vote to this amendment to the Huntt One.
4 All those in favor, signify by saying aye.

5 (Chorus of ayes.)

6 CHAIRMAN BRANSTAD: Opposed?

7 (No response.)

8 CHAIRMAN BRANSTAD: It is approved and we
9 now go to Huntt Two. Do you have any remarks on
10 that?

11 (No response.)

12 CHAIRMAN BRANSTAD: We'll just go to final
13 remarks.

14 MR. HUNTT: No final remarks. I just
15 thank Commissioner Bartlett for his friendly changes.

16 CHAIRMAN BRANSTAD: It's now been moved to
17 approve the Huntt amendment as amended. All in
18 favor, signify by saying aye.

19 (Chorus of ayes.)

20 CHAIRMAN BRANSTAD: Opposed?

21 (No response.)

22 CHAIRMAN BRANSTAD: It is approved.

23

1 MR. HUNTT: You forgot to say that was a
2 worthwhile endeavor as well.

3 (Laughter.)

4 CHAIRMAN BRANSTAD: It really was. Thank
5 you very much. Thank you all for adding a little
6 levity.

7 We'll go to Hunt Two. We're still into
8 Hunt here. Commissioner Hunt?

9 MR. HUNTT: I think I should quite while
10 I'm ahead, Mr. Chairman. I'm not sure what the
11 intent of this was. Perhaps Commissioner Bartlett
12 could edify me on that but my issues were twofold.
13 One, just from a grammatical mistake, grammar
14 mistake, successfully rather than successful, I'm
15 assuming on line 13. Secondly, I had a concern about
16 the last part of the sentence, his or her disability.
17 I'm not sure that's always the reason why kids don't
18 succeed. There's certainly some emphasis placed on
19 schools. That's what we're all talking about. So I
20 suggest that we delete it after the word "diploma"
21 and put a period after "diploma" on line 12.

22 CHAIRMAN BRANSTAD: Is there a second?

23

1 MR. HASSEL: Second.

2 CHAIRMAN BRANSTAD: We have a second from
3 Commissioner Hassel.

4 Discussion?

5 (No response.)

6 CHAIRMAN BRANSTAD: All in favor of that
7 motion? Commissioner Takemoto, are you asking for
8 the floor?

9 MS. TAKEMOTO: I just need some
10 clarification, just what happens to the language
11 about alternatives to the former options?

12 MR. HUNTT: I believe that's covered in
13 the subsequent language.

14 MS. TAKEMOTO: Thank you.

15 CHAIRMAN BRANSTAD: If there's no further
16 discussion, we'll proceed to a vote on this
17 amendment. It's as written, right?

18 MR. HUNTT: It's not been amended.

19 CHAIRMAN BRANSTAD: All those in favor of
20 approving the Huntt amendment signify by saying aye?

21 (Chorus of ayes.)

22 CHAIRMAN BRANSTAD: Opposed?

23

1 (No response.)

2 CHAIRMAN BRANSTAD: It is approved.

3 MR. HUNTT: Thank you, Mr. Chairman.

4 CHAIRMAN BRANSTAD: Takemoto Number four.

5 MS. TAKEMOTO: I think what I'd like to
6 propose to move this along is Takemoto Two, Three and
7 Four.

8 CHAIRMAN BRANSTAD: We're doing all those
9 together two, three and four?

10 MS. TAKEMOTO: Yes. The first one is to
11 delete on line 7, provided on the school district
12 level if appropriate. I don't think that wording is
13 necessary. It only confuses for me. The second is
14 deleting appropriate because we're assuming that
15 whatever happens is appropriate but adding in the
16 instance on line 18 and 21 where it says employment,
17 add to that, and post-secondary education
18 opportunities, so that it's clear that we're talking
19 about both employment and post-secondary.

20 CHAIRMAN BRANSTAD: Is there a second?

21 MR. LYON: Second.

22 CHAIRMAN BRANSTAD: Discussion?

23

1 MR. JONES: Actually, Commissioner
2 Takemoto, your suggestions on line 7 have actually
3 been mooted by the passage of the Hassel Two
4 amendment.

5 MS. TAKEMOTO: I withdraw that. Sorry.

6 CHAIRMAN BRANSTAD: So the one labeled
7 Number 2 is withdrawn.

8 MS. TAKEMOTO: Yes.

9 CHAIRMAN BRANSTAD: So we have three and
10 four that are still before us, correct? If there's
11 no further discussion, we'll proceed to a vote on
12 Takemoto amendments three and four, page 5, lines 18,
13 and page 5, line 21. All those in favor signify by
14 saying aye.

15 (Chorus of ayes.)

16 CHAIRMAN BRANSTAD: Opposed?

17 (No response.)

18 CHAIRMAN BRANSTAD: The amendments are
19 approved.

20 We now go to Hassel Amendment Number
21 Three. Hassel, also Takemoto Five, relates to the
22 same text. This is page 5, lines 25 through page 6,
23

1 line 2.

2 CHAIRMAN BRANSTAD: So they can take them
3 together?

4 MR. HASSEL: I think it's an either/or. I
5 propose just to leaving this all together and
6 starting with the more general paragraph on page 6.
7 Cherie proposes moving it, moving the initial first
8 paragraph to become the third paragraph. Is that
9 right, Cherie?

10 MS. TAKEMOTO: I'm still looking for your
11 papers. Let me find it.

12 (Pause.)

13 MR. HASSEL: My motion is simply delete
14 the first paragraph of this section and begin with
15 "at each Commission meeting and hearing."

16 MS. TAKEMOTO: Fine.

17 CHAIRMAN BRANSTAD: So you withdraw your
18 amendment, is that right, Commissioner Takemoto, in
19 favor of this, is that correct?

20 MS. TAKEMOTO: Yes.

21 CHAIRMAN BRANSTAD: So that's withdrawn.
22 Commissioner Hassel moves his amendment. Is there a
23

1 second?

2 MR. COULTER: Second.

3 CHAIRMAN BRANSTAD: Commissioner Coulter
4 seconds. Discussion? Commissioner Bartlett?

5 MR. BARTLETT: Commissioner Hassel, if
6 your point on the text, the opening paragraph of line
7 25 on page 5, if you're point is that that's
8 redundant, or that it's overstated, it seems to me
9 that that may be a place where we ought to be
10 redundant. It seems to me that that paragraph is an
11 appropriate way to the lead. The states and locals
12 schools must increase parental flexibility to choose
13 educational services and before that, it may or may
14 not be clumsy, but I think it's important to say it
15 right up front. I'm not sure why we would not want
16 to say it in those words.

17 MR. HASSEL: My thought was we started
18 with the notion that many parents are unsatisfied
19 with the education that their children are receiving
20 and offer Choice as one of the ways that we propose
21 to remedy that.

22 MR. BARTLETT: There's nowhere else in

23

1 this text of this section that is quite that clear,
2 that is quite as clearly stated that states local
3 schools must increase parents and students
4 flexibility.

5 CHAIRMAN BRANSTAD: Commissioner Takemoto?

6 MS. TAKEMOTO: I think my point in wanting
7 to switch the paragraphs was that the first concept
8 that we discuss in the recommendation is parental
9 empowerment, and so the paragraph that Bryan and I
10 recommend as the first paragraph really speaks to the
11 background about parental empowerment, and not losing
12 that concept. Parental empowerment for me does not
13 equal Choice. Parental empowerment is a principle
14 that Choice is one of the options for so my intent
15 was you need to discuss the first part of the
16 recommendation that we laid out as a task force which
17 was empowerment, and then lay out Choice.

18 MR. BARTLETT: If your proposal would be
19 to take that first paragraph and make it a subsequent
20 or later paragraph, that would make perfect sense.
21 But to delete it all together, I think loses an
22 important concept or an important emphasis.

23

1 MR. HASSEL: I can withdraw my deletion in
2 favor Cherie's move, that's fine.

3 CHAIRMAN BRANSTAD: Dr. Coulter?

4 MR. COULTER: Commissioner Takemoto, is it
5 to move it to page 6 or page 26?

6 MS. TAKEMOTO: It would be to move it to
7 make it the third paragraph of the narrative here.

8 MR. COULTER: Page 6, not 26, as your
9 recommendation reads?

10 MS. TAKEMOTO: Oh, gosh. And also give
11 medication to the person who wrote page 26.

12 CHAIRMAN BRANSTAD: Just for clarification
13 where we are now, Commissioner Hassel has now
14 withdrawn his amendment and we're back to
15 Commissioner Takemoto's amendment. Everybody
16 understands that. Commissioner Huntt, you're next.

17 MR. HUNTT: Mr. Chairman, since this
18 paragraph is back in front of us, my concern is that
19 we don't usurp student choice here and student
20 empowerment. There's no way we can insert something
21 that also allows the student to be involved where he
22 or she may end up. I didn't see that anywhere in

23

1 this paragraph, parental and student choice is an
2 important accountability mechanism.

3 CHAIRMAN BRANSTAD: We can add that. Does
4 Commissioner Takemoto accept that as a friendly
5 amendment?

6 MS. TAKEMOTO: Here, here.

7 CHAIRMAN BRANSTAD: That's accepted and
8 incorporated, then. You just add "and student."

9 MR. HUNTT: Parental and student choice.

10 CHAIRMAN BRANSTAD: To the Takemoto
11 amendment, accepted as a friendly amendment. Is
12 there further discussion? I'll recognize
13 Commissioner Takemoto for final remarks if she
14 chooses, or we can just move it.

15 MS. TAKEMOTO: That's great.

16 CHAIRMAN BRANSTAD: Commissioner Takemoto
17 moves her amendment, as has been amended by
18 Commissioner Hunt's friendly amendment.

19 All in favor, signify by saying aye.

20 (Chorus of ayes.)

21 CHAIRMAN BRANSTAD: Opposed?

22 (No response.)

23

1 CHAIRMAN BRANSTAD: It is approved.

2 Fletcher amendments 11 and 12. These are
3 more comments, I guess, than real amendments.

4 MR. BARTLETT: The Chair does not accept
5 these amendments, Mr. Chairman, the Task Force Chair.

6 CHAIRMAN BRANSTAD: Does anybody want to
7 defend them?

8 (No response.)

9 MS. TAKEMOTO: Mr. Chair, I'm sorry. I
10 just want to make sure that I'm on the right numbers
11 because there are a bunch of numbers that we talked
12 about.

13 MR. JONES: Eleven and 12 Fletcher.

14 CHAIRMAN BRANSTAD: We're on Fletcher 11
15 and 12, page 2 of the Fletcher amendments. Page 6,
16 lines 4 through 14, and page 6, lines 16 through 22.
17 That's what we're on but so far I haven't heard
18 anybody that wants to move these amendments.

19 MS. BRYAN: I'll move them for the purpose
20 of discussion.

21 CHAIRMAN BRANSTAD: Is there a second?

22 MR. LYON: Second.

23

1 CHAIRMAN BRANSTAD: Moved by Commissioner
2 Bryan, second by Commissioner Lyon. Discussion?

3 (No response.)

4 CHAIRMAN BRANSTAD: Commissioner Bryan?

5 MS. BRYAN: The one piece that I picked up
6 fairly quickly, I mean, this takes a while to figure
7 out, but I think one of the things he's talking about
8 in Section 16 through 22 is that there's nothing in
9 here that really talks about student achievement
10 results as being the end all that in fact the current
11 system is focused on procedural compliance oriented
12 programs, and should be changed, not so much to
13 provide individual strategies but changed to provide
14 results for accountability. I think that's what he's
15 getting at there. I'm sorry he did not put specific
16 language in there that would help us but my guess is
17 that's what he was getting at, that it needs to focus
18 more rather than on flexibility and innovative
19 strategies, it needs to focus on student results and
20 academic achievement.

21 CHAIRMAN BRANSTAD: Commissioner Coulter?

22 MR. COULTER: If I could direct the
23

1 Commissioners' attention to line 18, I would suggest
2 that we change the wording to read, that provides the
3 flexibility to develop innovative strategies to
4 achieve results for each child.

5 CHAIRMAN BRANSTAD: You're offering that
6 as a substitute amendment?

7 MR. COULTER: That's correct. I'm not
8 certain, I don't think we have any substitute
9 language.

10 CHAIRMAN BRANSTAD: What you're saying is
11 the amendments, Fletcher's amendments are really not
12 in proper order as amendments. They're offering this
13 as a substitute.

14 MR. COULTER: I think --

15 CHAIRMAN BRANSTAD: He's pointing out a
16 problem.

17 MR. COULTER: He's pointing out a problem.
18 What I'm suggesting to solve the problem would be on
19 line 18, the flexibility to develop innovative
20 strategies to achieve results for each child.

21 MR. BARTLETT: Second.

22 CHAIRMAN BRANSTAD: Commissioner Bartlett

23

1 seconds that. This is being offered as a substitute.
2 The original amendments are withdrawn then. At this
3 point, we don't have to withdraw them because we
4 state this as a substitute. If this fails, we can be
5 back on the original, except the original is not
6 really drafted in a form that's acceptable.
7 Everybody understand that?

8 MR. COULTER: Well-stated.

9 CHAIRMAN BRANSTAD: Is there discussion on
10 the amendment that Commissioner Coulter has offered?

11 (No response.)

12 CHAIRMAN BRANSTAD: All those in favor,
13 signify by saying aye.

14 (Chorus of ayes.)

15 CHAIRMAN BRANSTAD: Opposed.

16 (No response.)

17 CHAIRMAN BRANSTAD: It is approved. Now
18 can we withdraw? Okay. So the Fletcher amendments
19 are now withdrawn. Now we have Hassle amendments 4
20 and 5 and Fletcher 13, all addressing the same area.
21 Let me recognize Commissioner Hassel.

22 MR. HASSEL: My concern about this section

23

1 is that we had general statements about the idea of
2 choice, but we don't talk about our recommendations
3 for policy. And so the two paragraphs that I drafted
4 actually explain and defend our recommendations. So
5 this is on my packet, page 3, the two paragraphs, one
6 way to open up more choices, everybody can see that.

7 CHAIRMAN BRANSTAD: At the very beginning
8 of page 3, you have the Hassel amendments. If you
9 look at the Hassel amendments, and you go to the
10 beginning of page 3, they're all stapled together.
11 At the top of page 3 is where you're starting, is
12 that right, Bryan?

13 MR. HASSEL: Yes.

14 CHAIRMAN BRANSTAD: Page 3 of the Hassel
15 amendments. Commissioner Hassel, could you tell us
16 where you want to insert these two paragraphs, which
17 you're suggesting.

18 MR. HASSEL: My motion is on page 6 of the
19 report, line 29, after the words "seriously
20 considered" we'll make a new paragraph that begins
21 one way to open up, then insert these two paragraphs,
22 then it would pick up again with the discussion of

23

1 charter schools.

2 Commissioner Coulter?

3 MR. COULTER: When you say line 29, you
4 are deleting the sentence that begins on 29, the
5 increase in numbers?

6 MR. HASSEL: No, I'm suggesting that would
7 come in after the two paragraphs that I insert, so
8 seriously considered new paragraph one way to open
9 up. My two paragraphs, then it would pick up again
10 with the increasing number of families.

11 MR. COULTER: As a one-sentence paragraph.

12 MR. HASSEL: That's a good point. Perhaps
13 that paragraph could be combined with the following
14 paragraph. Since public charter schools are, and
15 just continue on. It's a continuation of the charter
16 school paragraph.

17 MR. COULTER: Come again.

18 MR. HASSEL: Page 6, line 29, seriously
19 consider would be the end of the paragraph. Then
20 there'd be a new paragraph beginning one way to open
21 up more choices, as I propose. Then there would be
22 another new paragraph beginning, the Commission heard

23

1 testimony from Harvard, blah, blah, blah, and then
2 there'd would be another paragraph, finally the
3 increasing number of families who have chosen charter
4 schools leads us to recommend further and the rest of
5 that sentence, as it currently stands, on lines 29
6 and 30, and then that paragraph would just continue
7 with since public charter schools are typically, as
8 it is on line 4, page 7.

9 MR. COULTER: I understand. Thank you.

10 MR. BARTLETT: Mr. Chairman, I second.

11 CHAIRMAN BRANSTAD: We have a second to
12 the Hassel amendment. Is there discussion?
13 Commissioner Lyon?

14 MR. LYON: Would you accept, instead of
15 open up, the word increase?

16 MR. HASSEL: In place of open up more,
17 increase is the first line of the first new
18 paragraph. One way to increase choices is fine.

19 CHAIRMAN BRANSTAD: That's accepted as a
20 friendly amendment.

21 MR. BARTLETT: Mr. Chairman, I have a
22 point of information. How in the world can anyone
23

1 get theirselves to work in this hotel room. This is
2 just tremendous. Their cell phone to work in this
3 hotel basement, that's just tremendous. He must have
4 the most powerful cell phone on the planet.

5 CHAIRMAN BRANSTAD: Okay, here we are,
6 sports fans. Who's next?

7 (No response.)

8 CHAIRMAN BRANSTAD: We have the Hassel
9 amendment with the friendly amendment that has been
10 accepted. Is there further discussion?

11 (No response.)

12 CHAIRMAN BRANSTAD: Would you like final
13 remarks on this? Okay, Commissioner Grasmick?

14 MS. GRASMICK: I'd just like to ask
15 Commissioner Hassel to define for me what he means by
16 adequate resources in this paragraph where the
17 Commission heard testimony, that paragraph from
18 Harvard economics professor, with adequate resources.
19 What does that mean?

20 MR. HASSEL: I certainly am not going to
21 try to define it specifically. I think the point of
22 this paragraph is to say that providing a severely
23

1 disabled child with the funding of \$1,000, \$2,000, is
2 not going to open up any serious choice opportunities
3 for that student. No school is going to take a
4 student like that for \$2,000; that's the point of
5 this. Now how much should they offer? We can't
6 possibly get into that in this report in any specific
7 detail.

8 MS. GRASMICK: Let me just ask you this.
9 If there is a per-pupil expenditure for that student
10 who has that level of disability in the public school
11 and the parents want to pursue school choice, is it
12 an open checkbook?

13 MR. GORDON: Or is is just a federal
14 allotment or wasn't it.

15 MR. HASSEL: The only thing federal policy
16 can do is allow or require the federal allotment to
17 follow. The second paragraph is urging states, if
18 they design Choice policies, not to design them in
19 such a way that only a tiny slice of funding follows
20 students. Whether that means open checkbook or
21 whether that means some other intermediate amount,
22 we're not specifying that. This is advice to states

23

1 not to go with a low ball program that doesn't
2 provide enough resources to make it meaningful for a
3 student.

4 CHAIRMAN BRANSTAD: What you're saying is,
5 it should be with adequate resources basically leaves
6 the discretion to the state to determine what that
7 is, but it probably is more than just federal money?

8 MR. HASSEL: Right.

9 MS. BRYAN: You know state charter laws
10 well. My understanding, I know in my state, the
11 weighted money automatically follows the child when
12 he goes to a charter school. The federal money
13 follows the child. Are you saying there are states
14 where they have charter school laws that do not allow
15 the weighted money to follow the child? Can you give
16 me an example of a state where it's not allowed,
17 where somehow --

18 MR. HASSEL: Well there are states where
19 the full-funding does not follow the child to charter
20 schools. Certainly that's quite common. This is
21 also anticipated, the possibility of something like a
22 McKay Scholarship in Florida, where the State allows

23

1 some resources to follow the child, but not all
2 available resources for that child. It therefore
3 makes it not really relevant to the students with
4 expensive needs.

5 MS. BRYAN: That's not related to charter
6 schools, though; that's a totally separate issue.

7 MR. HASSEL: This is not about charter
8 schools per se; this is about any kind of Choice
9 program that a state would design and urging them to
10 fund it adequately so that it's meaningful for
11 students with severe disabilities.

12 CHAIRMAN BRANSTAD: Commissioner Gordon?

13 MR. GORDON: Should it though make the
14 point that you made earlier that federal law can't
15 compel a state to in effect add on their money to
16 whatever the federal allotment is. We encourage
17 states, for the Choice Program to be meaningful, we
18 encourage states, if they so choose to set it up, so
19 that state money blends with the federal money, and
20 follows the child, does something like that.

21 MR. HASSEL: Perhaps inserting the
22 language after the word "consequently" toward the end

23

1 of that paragraph, consequently, while federal policy
2 should not require states to do so.

3 MR. GORDON: That if states opt to
4 maintain Choice Programs or something like that or
5 opt to initiate Choice Programs.

6 MR. HASSEL: While federal policy should
7 not require states to do so, the Commission
8 recommends that in designing optional choice
9 programs, states allow something along those lines.

10 MR. GORDON: Yes. What I'm concerned
11 about is, unlike with the charters, in special
12 education you have another whole category of private
13 schools, the private special ed schools, some of
14 which are very, very expensive. You heard the
15 testimony of Florida. We think we need to make some
16 distinction there because the charter schools in our
17 state, the state allotment does follow the child. In
18 the case of private special ed schools, that's in
19 essence negotiated through the IPG.

20 CHAIRMAN BRANSTAD: Is that a friendly
21 amendment than we're talking about here? Can you
22 restate that so you would have this as an amendment

23

1 to your amendment, a clarification amendment I guess
2 to your amendment?

3 MR. HASSEL: I would say consequently,
4 while federal policy should not require them to do
5 so, --

6 MR. GORDON: The Commission encourages --

7 MR. HASSEL: I'm not sure encourages works
8 syntax-wise. Sticking with recommends that in
9 designing optional choice programs, and then carry on
10 as usual, so we've got doubling stating that it's
11 optional.

12 CHAIRMAN BRANSTAD: After consequently,
13 restate it again if you would.

14 MR. HASSEL: Consequently, while federal
15 policy should not require them to do so, the
16 Commission recommends, the Commission recommends that
17 in designing optional choice programs, and then as it
18 is.

19 CHAIRMAN BRANSTAD: All available
20 resources, not just IDEA funds, to follow the
21 students to the schools that the parents choose.

22 Yes, Commissioner Horn?

23

1 MR. HORN: As a friendly amendment, can we
2 change "should not" to "cannot" if that more
3 accurately reflects the legal situation. It's not
4 that the Commission would not if it could recommend
5 that federal policy would mandate this, it's just
6 that it's a moot question. Since federal policy
7 cannot, as opposed to should not.

8 MR. HASSEL: If that's true, I accept it.
9 I don't know if it is.

10 CHAIRMAN BRANSTAD: There are a lot of
11 people nodding their heads.

12 MR. BARTLETT: I think it's better with
13 should. I don't know if it's true or not. I don't
14 think we have to decide. If you get to the 15th
15 Amendment or the 14th Amendment, you could make an
16 argument that it is. I just don't know that we have
17 to decide it. If we're not recommending it, we're
18 not recommending it.

19 MR. HORN: If you say, should not, we're
20 recommending against it.

21 MS. BRYAN: I think the issue is the
22 federal government only has authority over programs
23

1 which have federal funding. So under the
2 circumstances of IDEA, they cannot apply this to
3 federally-funded programs, programs that would not be
4 federally funded, so the cannot only applies. You
5 cannot make somebody do something unless --

6 MR. JONES: Commissioner?

7 MS. BRYAN: Do you see what I'm saying,
8 though?

9 MR. HORN: I know this is a matter of law.
10 Perhaps what we ought to do is get somebody who
11 actually knows the law to give us an informed opinion
12 about whether or not the federal government cannot
13 compel a state to use its state funds. I'll be
14 honest with you. My great concern about this is that
15 if it's limited only to federal funds, that a
16 particular school district could give up on kids and
17 say let's just give this family a \$2000 voucher and
18 the heck with 'em. Let them go figure out how to
19 educate their own kid. That'll take us way back,
20 three decades back. It seems to be that we ought not
21 to allow the option for a state to do that. If it is
22 in fact a cannot, then we ought to state it as a

23

1 cannot. If it is a should not, we are taking a
2 position that the federal government should not
3 compel a state to use all the money that they would
4 otherwise use to educate that child and provide that
5 in form of a voucher, so it actually has real
6 meaning. So you get rid of the kid for \$2,000 and
7 you get to keep the other money that's available to
8 educate the other kids in your school. I think
9 that's really disastrous policy and takes us back
10 three decades.

11 MR. JONES: Could I offer this suggestion.
12 If you leave it as an open question in your motion to
13 technical clarification, I will have this discussion
14 with our office of general counsel at the Department
15 of Ed. If the law compels it, if the federal
16 government could compel this, then it would be can.
17 If the federal government cannot compel this, it
18 would be should. I'm sorry, the opposite.

19 CHAIRMAN BRANSTAD: Is that okay? In
20 other words, we can defer to the general counsel
21 basically to give us what the law is on it, and that
22 determines whether or not that change is made.

23

1 Commissioner Grasmick?

2 MS. GRASMICK: This is a semantic issue
3 but I think this is going to be a very important
4 statement for school systems across the country so I
5 concur with getting it resolved. But when you say
6 all available revenues, what you're really talking
7 about is the per-pupil expenditure which is a
8 combination of federal, state, and local, and that
9 communicates to school systems more than all
10 available resources. I don't know what that means.

11 MR. HASSEL: You're proposing, instead of
12 all available revenues, what language?

13 MS. GRASMICK: States allow or states
14 contribute all per pupil expenditures or add on per
15 pupil expenditure.

16 CHAIRMAN BRANSTAD: So you replace all
17 available revenues with per pupil expenditure.
18 That's accepted as a friendly amendment.

19 MS. BRYAN: Per pupil expenditure state
20 and local. Are you saying --

21 MS. GRASMICK: No. Federal, state, local.

22 MS. BRYAN: We probably ought to specify.

23

1 CHAIRMAN BRANSTAD: So its per pupil
2 expenditure, federal, state and local, and you say
3 there needs to be a verb in there?

4 MR. COULTER: If you take out "allow".
5 Are you leaving "allow" in? Okay.

6 MR. BARTLETT: Mr. Chairman, I'm concerned
7 about perhaps an unintended consequence. We heard
8 testimony in the McKay scholarships. They have them
9 graduated based on the degree of disability and
10 therefore the cost. I would hate to have this be
11 interpreted to mean that we want the average per
12 pupil expenditure. As our recommendation, I think
13 what the paragraph was designed to say is adequate
14 resources as defined by the state from available
15 revenues. An average per pupil expenditures --

16 MS. GRASMICK: For a child at that level
17 or intensity of disability.

18 MR. CHAMBERS: To which the child would
19 have been entitled otherwise.

20 MR. GORDON: That was my concern. The
21 system Florida has, as I understand it, is quite
22 unusual. Generally speaking, it's in the range of

23

1 \$5,000 or \$6,000 per pupil and in essence you
2 negotiate through the IEP what the appropriate level
3 of service. There isn't a ratable set that this
4 child is worth so much and another one is not. I
5 don't know that we want to recommend to the states a
6 system like Florida has. Maybe we should keep it
7 more general.

8 MR. CHAMBERS: In fact every state has its
9 own funding formula for special education. Some
10 might provide a two-to-one, some might provide
11 weight, some provide resource-based. There's just a
12 whole range of reductions. Maybe going back to the
13 all revenue for which a child would have been
14 otherwise entitled in the public school system. It
15 ties it to the state.

16 MR. BARTLETT: Per pupil expenditure is a
17 very precise term. It usually carries with each
18 state an exact dollar amount.

19 MR. CHAMBERS: You'd have to attach and
20 figure out what the expenditures are for a particular
21 or the costs are for a particular type of child. All
22 we're saying is whatever the state has decided with

23

1 regard to the special ed formula, whatever those
2 revenues would have been; general ed, special ed, all
3 the other things that this child would be entitled
4 to, this child would be entitled to those revenues
5 under that Choice system.

6 MS. GRASMICK: I'm comfortable with as
7 determined by the state because it's different state-
8 to-state.

9 CHAIRMAN BRANSTAD: Okay. That's now a
10 new friendly amendment, is that correct? I just want
11 to make sure that we have this accepted.

12 MR. CHAMBERS: That the states allow all
13 available revenues?

14 MR. GORDON: State determination.

15 MR. CHAMBERS: That's different. To which
16 the student would have been entitled.

17 CHAIRMAN BRANSTAD: Okay.

18 MR. CHAMBERS: To which the student would
19 otherwise have been entitled. I'm getting
20 convoluted. To which the student would have
21 otherwise been entitled.

22 CHAIRMAN BRANSTAD: And you're accepting

23

1 that and Commissioner Hassel accepts that as a
2 friendly amendment. I want to have Todd read that
3 back and make sure we all understand it.

4 MR. JONES: Starting with the word
5 "consequently." Consequently, while federal policy
6 can/should not require them to do so, the Commission
7 recommends that in designing optional choice
8 programs, states allow all available revenues to
9 which the student would have otherwise been entitled
10 -- not just IDEA funds -- to follow students to the
11 schools their families choose.

12 CHAIRMAN BRANSTAD: That's good. Okay.
13 That's been accepted as a friendly amendment. We are
14 now on the Hassel amendment as amended. Any further
15 discussion? Commissioner Hunttt?

16 MR. HUNTT: Thank you, Mr. Chairman. One
17 other minor wordsmithing. Would Commissioner Hassel
18 consider changing adequate to appropriate and complex
19 to significant? It's minor unless you disagree.

20 CHAIRMAN BRANSTAD: Adequate to
21 appropriate and complex to significant.

22 MR. HUNTT: We're in the second paragraph

23

1 of the Hassel amendment, adequate resources I'm
2 suggesting be appropriate resources, line 5, in the
3 second paragraph, from complex needs to significant
4 needs.

5 CHAIRMAN BRANSTAD: Mr. Hassel accepts
6 that as a friendly amendment. We're now on the
7 Hassel amendment as amended. If there's no further
8 discussion, we'll proceed to a vote on that. All in
9 favor of that, signify by saying aye.

10 (Chorus of ayes.)

11 CHAIRMAN BRANSTAD: Opposed?

12 (No response.)

13 CHAIRMAN BRANSTAD: It is approved.

14 Takemoto amendment Number 6.

15 MS. TAKEMOTO: This is on the sheet that
16 has accountability at the top and there's two
17 paragraphs of text that I propose inserting that add
18 to this discussion in light of not wanting parent
19 empowerment to only equal choice but to talk about
20 other things. I think I've incorporated language
21 that the task force discussed that talks about other
22 ways that parents can be empowered including getting

23

1 information understanding what's going on with their
2 child. And looking at parents who traditionally have
3 not had the information and have used the information
4 for the benefit of their children.

5 CHAIRMAN BRANSTAD: Is there a second?

6 MR. COULTER: Second.

7 CHAIRMAN BRANSTAD: Dr. Coulter seconds
8 it. And I recognize Mr. Coulter.

9 MR. COULTER: Commissioner Takemoto, if I
10 understand this correctly, you're proposing to insert
11 these two paragraphs before line 24, between 22 and
12 24 on page 6.

13 MS. TAKEMOTO: Yes.

14 MR. COULTER: Thank you.

15 CHAIRMAN BRANSTAD: Any further discussion
16 on this amendment? Commissioner Gordon?

17 MR. GORDON: I just have a couple
18 wordsmith suggestions. Down at the last sentence of
19 the second paragraph, the Department of Education
20 should, I would like it to say "promote parental
21 understanding of rights and programs." That's
22 important. And then I think it should just say their

23

1 children, there's a their.

2 CHAIRMAN BRANSTAD: You would say the
3 Department of Education should promote parental --

4 MR. GORDON: Where is says should increase
5 support for programs that promote parental
6 understanding of rights and programs.

7 CHAIRMAN BRANSTAD: And programs after
8 rights.

9 MR. GORDON: For them to make informed
10 decisions about their children.

11 MR. BARTLETT: If the gentleman would
12 yield, instead programs, perhaps the term would be
13 "educational services."

14 MR. GORDON: I think the point is that
15 it's the understanding what you're being offered.

16 CHAIRMAN BRANSTAD: Rights and educational
17 services.

18 MR. PASTERNAK: I have just a question
19 here. I thought this was the President's Commission
20 on Excellence and Special Education. I think if
21 we're going to talk about that can we talk about it
22 in the context of the IDEA? If the intent of

23

1 Commissioner Takemoto's amendment is to say that we
2 should increase our support for programs that promote
3 parental understanding of their rights under the
4 IDEA, so that they can make informed decisions about
5 their children, something like that. I'm concerned
6 if the intent of the amendment is to go beyond the
7 IDEA, that's one thing, but I am concerned that we
8 fulfill our mandate here to advise the President on
9 excellence in special education.

10 CHAIRMAN BRANSTAD: So we're now rights
11 and services under the IDEA? Is that kind of
12 bringing this all together? Is that acceptable as a
13 friendly amendment?

14 MS. TAKEMOTO: I welcome all these
15 amendments. I think they make it more clear what I
16 tried to --

17 CHAIRMAN BRANSTAD: So we have rights and
18 services under IDEA. That's accepted as a friendly
19 amendment. We will accept it sa a friendly amendment
20 to the amendment by the author. Discussion? Are we
21 ready to vote? Commissioner Lyon?

22 MR. LYON: Again, just a bit of
23

1 wordsmithing. Commissioner Takemoto, is it possible
2 to just delete the first sentence in the top
3 paragraph, given that the second sentence says
4 basically the same thing.

5 MS. TAKEMOTO: In the interest of getting
6 agreement on the rest, I accept that.

7 CHAIRMAN BRANSTAD: That's also accepted
8 as a friendly amendment. Commissioner Hunttt?

9 MR. HUNTT: Mr. Chairman, has this been
10 stated elsewhere in the document? Parental choice
11 has come up now this morning several times. Just
12 concern for brevity, is this the first time this is
13 coming up?

14 MS. TAKEMOTO: If I can answer that,
15 respond to that, that is specifically why I wanted to
16 add this language here because it had not come up in
17 the context of parental empowerment. That the
18 discussion was solely about choice and not about
19 other ways for parents to be empowered.

20 CHAIRMAN BRANSTAD: Okay, are we ready for
21 a vote? We now have the Takemoto amendment which is
22 these two paragraphs which have now been amended with

23

1 two or three friendly amendments and we're prepared,
2 does Commissioner Takemoto wish to have final
3 remarks? If not we'll proceed to a vote.

4 All in favor signify by saying aye.

5 (Chorus of ayes.)

6 CHAIRMAN BRANSTAD: Opposed?

7 (No response.)

8 CHAIRMAN BRANSTAD: It is approved. We're
9 going to take a lunch break. I was hoping to be done
10 with this section but we're getting close. This is a
11 very important section and I think it's one of the
12 ones that's most controversial. We thank you for
13 your indulgence and participation. Here is the
14 situation. We're going to reduce our break for lunch
15 till one hour. Actually it's going to be about 55
16 minutes. We're going to come back here at 1:30.
17 It's almost 12:35 now but this room is going to be
18 closed and locked, so I want for our guests to know
19 so that the material can stay out here. It's going
20 to be closed and locked. We will recess until 1:30
21 and we're going to come back here at 1:30. I would
22 ask the Commissioners to be back here at 1:30

23

1 promptly so we can go back to work. Thank you very
2 much. We are recessed.

3 (Whereupon, at 12:30, the Committee was
4 recessed for lunch, to reconvene the same day at 1:30
5 p.m.)

6

7

8

9

10

11

12

13

14

15

16

17

18

1 school would have. Jack is suggesting we should not
2 say that, that in fact that opens up the possibility
3 of charter schools refusing to serve children with
4 special needs. That's the issue.

5 I prefer the original language. It tries
6 to keep out the possibility that a charter school
7 could be bankrupted by one child, whereas a local
8 public school would never face that because the
9 district would be able to absorb the costs.

10 CHAIRMAN BRANSTAD: Are there others who
11 would like to comment? Does anybody want to move? I
12 don't know. The amendment would essentially delete
13 this sentence. Is that what he's getting at?

14 MR. HASSEL: Delete the final phrase.
15 That's the way I interpret it.

16 CHAIRMAN BRANSTAD: After students at line
17 11, there'd be a period and delete the rest of it.

18 MR. HASSEL: I would move that for the
19 purpose of having discussion of it.

20 MS. TAKEMOTO: Second.

21 CHAIRMAN BRANSTAD: There's a motion and a
22 second to approve it. I understand for purposes of
23

1 discussion, it's been moved. But it's my
2 understanding that you do not support it. Is there
3 anyone that would like to speak in favor of this
4 change? Recognize Commissioner Hunt.

5 MR. HUNTT: Thank you, Mr. Chairman.
6 Commissioner Hassel, would you accept and maybe
7 getting to this point where it says "needs of
8 students with disabilities, and if local parents
9 request is" as additional language there?

10 MR. HASSEL: Where are you?

11 MR. HUNTT: Line 6, beginning to "to
12 create an environment in which charter schools can
13 meet the needs of students with disabilities, and if
14 local parents request it, states need to give charter
15 schools equitable access to special education
16 funding. In other words, local parents aren't
17 necessarily concerned about it, and don't want access
18 to it. Does that mean charter schools could still do
19 it?

20 MR. HASSEL: I think his issue is more
21 down at this last line, so maybe we can hold that.

22 CHAIRMAN BRANSTAD: Commissioner Gordon?

23

1 MR. GORDON: What is the need for the last
2 sentence? Again, I think we're back to the states
3 must clarify the allocation. They must do whatever
4 they want to do and it seems to me the sentence
5 before captures what we'd like them to try to do.

6 CHAIRMAN BRANSTAD: So you're suggesting
7 just delete that last sentence altogether.

8 MR. GORDON: I think the second sentence
9 in the paragraph really says what we're recommending
10 that states do if they are so inclined.

11 MR. HASSEL: The previous sentence goes
12 more to charter schools access to services and
13 technical assistance. The final sentence goes to the
14 allocation of responsibility under state law, which
15 is really a separate question. In many states, it's
16 unclear what responsibilities charter schools have
17 versus districts in which the child resides. In this
18 instance, it's just calling on states to be clear
19 about that so that everyone knows what they're
20 getting into.

21 CHAIRMAN BRANSTAD: Commissioner Takemoto?

22 MS. TAKEMOTO: Having already added two

23

1 paragraphs to this report and fearful that more
2 people will be taking, and this not being central to
3 our discussion, I agree with Dr. Fletcher's
4 recommendation that we just strike it. It wasn't
5 central to our discussion. In implementation, the
6 states would have to do this, and there would have to
7 be some discussion of civil rights in all this
8 anyway. So I would just say, just for purposes of
9 deleting text, because I've added text, I am for it.

10 CHAIRMAN BRANSTAD: I think the question
11 is then do you support deleting the entire sentence
12 or just deleting after students?

13 MS. TAKEMOTO: I support Dr. Fletcher's
14 amendment to delete the whole sentence.

15 CHAIRMAN BRANSTAD: That's not the
16 amendment. It's my understanding that that
17 amendment, as presented by Commissioner Hassel puts
18 a period after "students." David Gordon has
19 suggested we delete the whole sentence. Do you want
20 to offer that as a substitute?

21 MS. TAKEMOTO: No, I agree with Dr.
22 Gordon's amendment and I'm sorry but I lost track of
23

1 that.

2 CHAIRMAN BRANSTAD: You offered that as an
3 amendment, as a substitute amendment, Commissioner
4 Gordon?

5 MR. GORDON: Yes.

6 CHAIRMAN BRANSTAD: And you second it. So
7 we have a motion and a second that, as a substitute,
8 this is really a substitute for the Fletcher
9 amendment that would delete the entire sentence,
10 starting with states on lines 9, 10, 11, and 12.
11 Discussion on that?

12 (No response.)

13 CHAIRMAN BRANSTAD: If there's no more
14 discussion, we'll vote on that. All in favor of the
15 Gordon substitute amendment that deletes that entire
16 sentence, signify by saying aye.

17 (Chorus of ayes.)

18 CHAIRMAN BRANSTAD: Opposed?

19 (Chorus of noes.)

20 CHAIRMAN BRANSTAD: There is one no vote,
21 but it is approved. That is really in lieu of so the
22 Fletcher amendment is now out of order. We'll go to

23

1 Hassel amendment number 6.

2 MR. HASSEL: It actually might be useful
3 to consider 6 and 7 together. Page 7, lines 19
4 through 21, is to make clear that families can choose
5 charter schools and other choice options that target
6 students with disabilities, which apparently is
7 something that many parents would seek out even if
8 these offer relatively restricted environments. The
9 proposed amendments make clear that we're not
10 suggesting that this be done outside the context of
11 IEP team and outside considerations of what's right
12 for the student. This is still within the framework
13 of special education which takes into account those
14 features.

15 CHAIRMAN BRANSTAD: Is there a second?
16 Commissioner Hassel moves amendments 6 and 7, the
17 clarification amendments. Is there a second to that?

18 MR. BARTLETT: Second.

19 CHAIRMAN BRANSTAD: We have a second from
20 Commissioner Bartlett. Discussion?

21 (No response.)

22 CHAIRMAN BRANSTAD: All in favor of adding
23

1 this clarifying language Hassel amendments 6 and 7,
2 signify by saying aye.

3 (Chorus of ayes.)

4 CHAIRMAN BRANSTAD: Opposed signify by
5 saying no.

6 (No response.)

7 CHAIRMAN BRANSTAD: It is approved.

8 MR. JONES: Next is Fletcher 15.

9 CHAIRMAN BRANSTAD: The next is Fletcher
10 amendment number 15. Is somebody going to handle
11 this? Commissioner Takemoto?

12 MS. TAKEMOTO: I think I'm incorporating
13 what he's saying and maybe embellishing it a little
14 bit. But on page 7, line 28 and line 29, after
15 "issues as central," I would insert "as central civil
16 rights to special education essential." So states
17 and localities must treat ideas, least restrictive
18 environment issues as central civil rights, and
19 central to special education, making it a matter of
20 services rather than a matter of procedural
21 safeguards. The students with disabilities are best
22 served with their non-disabled peers and then insert
23

1 Dr. Fletcher's text, which says, whenever possible or
2 consistent with the individual needs of the child,
3 and the wishes of the parent. I think Dr. Fletcher's
4 language there makes clear what we had discussed on
5 the earlier amendment that there are situations where
6 the least restrictive environment is appropriate in
7 accordance with parental wishes.

8 MR. JONES: Would you read that one more
9 time?

10 MS. TAKEMOTO: States and localities must
11 treat ideas least restrictive environment issues as
12 central civil rights.

13 CHAIRMAN BRANSTAD: Would basic civil
14 rights be better than central?

15 MS. TAKEMOTO: That's terrific. Basic
16 civil rights and essential to special education by
17 making LRE a matter of services rather than a matter
18 of procedural safeguards. Students with disabilities
19 are best served with their non-disabled peers
20 whenever possible or consistent with the individual
21 needs of the child and the wishes of the parent.

22 CHAIRMAN BRANSTAD: Commissioner Takemoto

23

1 moves that amendment which really incorporates her
2 amendment and the Fletcher amendment, right?

3 MS. TAKEMOTO: Yes.

4 CHAIRMAN BRANSTAD: Is there a second to
5 that?

6 MR. CHAMBERS: Second.

7 CHAIRMAN BRANSTAD: Seconded by
8 Commissioner Chambers. I recognize Commissioner
9 Bartlett.

10 MR. BARTLETT: Mr. Chairman, with the
11 utmost respect and admiration for Commissioner
12 Takemoto and also Commissioner Fletcher, it seems to
13 me in re-reading carefully lines 28 on page 7 through
14 line 5 on page 8, which is what is being amended, it
15 seems to me that this is a problem that does not
16 exist, so the solution of changing language or adding
17 more language or deleting language, it seems to me in
18 reading this paragraph carefully, it is a good
19 paragraph the way it is. It says what we mean, which
20 is that LRE is central to special education services
21 and that best served with non-disabled peers. That's
22 what the law says, by the way, and clearly that there
23

1 are exceptions to that, so I'm not sure we serve
2 ourselves by trying to modify this language. It
3 looks to me like the language does what we want it.

4 MS. TAKEMOTO: What I have attempted to do
5 here is respect the dissent in the Commission about
6 this point. I know that we heard from Dr. Fletcher,
7 Dr. Lyon, and others, that students with disabilities
8 are not necessarily always best served with their
9 non-disabled peers. That is not a principle that I
10 embrace, but I also want to respect the differing
11 opinions of other members of the Commission, and also
12 Dr. Fletcher who is not here.

13 CHAIRMAN BRANSTAD: Dr. Lyon?

14 MR. LYON: I think the language can stay
15 in essence as stated with the same meaning. If
16 Commissioner Takemoto's phrase and Dr. Fletcher's
17 phrase after non-disabled peers, carries that
18 modifier with it --

19 MS. TAKEMOTO: That is Dr. Fletcher's
20 specific amendment that he requested that we
21 consider. I should add that far be it from me to be
22 out LRE'd by another member of the Commission, but I

23

1 have been so chastised.

2 MR. BARTLETT: I don't think I'd
3 characterize it that way. I'm just suggesting that
4 this probably doesn't need to be amended.

5 MR. PASTERNAK: Mr. Chairman, this issue
6 is one that we talked about the other day. Clearly
7 the Secretary and the Administration are committed to
8 the fundamentally important principle of educating
9 children with disabilities in the least restrictive
10 environment, and the law does state to the maximum
11 extent appropriate, students with disabilities shall
12 be educated with their non-disabled peers. The issue
13 with Dr. Fletcher all along has been that some
14 students with non-specific disabilities, particularly
15 kids with learning disabilities, may not in fact be
16 best served according to the data he presents in a
17 general education setting. He believes students with
18 learning disabilities specifically should be educated
19 in a pullout model.

20 The data clearly indicates that his
21 perspective is superior and gets back to the issue we
22 talked about this morning. In some instances we

23

1 don't have data to know which kids with what
2 disabilities do the best in what kind of settings
3 with what kind of settings taught by people using
4 what kinds of scientifically based curricula. So I
5 would support the addition of the language
6 recommended by Dr. Fletcher in the sentence Dr. Lyon
7 was just referring to. Students with disabilities
8 are best served with their non-disabled peer,
9 whenever possible or consistent with the individual
10 needs of the child and the wishes of the parent.

11 MS. TAKEMOTO: As the presenter of this
12 amendment, I would accept that if we can also add
13 some of Dr. Pasternack's language that says after
14 non-disabled peers, what is not clear to the public
15 is that it is a curricular, co-curricular, and extra-
16 curricular activity whenever possible so I would add
17 the other language in support of our President and
18 our Secretary.

19 CHAIRMAN BRANSTAD: This report, as long
20 as it is already, if it's already in the law, I don't
21 know that we have to state it in the report.

22 MS. TAKEMOTO: So let's move on.

23

1 CHAIRMAN BRANSTAD: Are we ready to vote
2 on this?

3 MR. BARTLETT: Mr. Chairman, for
4 clarification, the add would be to add the words,
5 whenever possible or consistent with the individual
6 needs of the child or the wishes of their parents.
7 Is that the basic add?

8 MS. TAKEMOTO: Steve, are you suggesting
9 that we take out the basic civil rights and essential
10 to special education? I just want to make sure that
11 I understand.

12 MR. BARTLETT: I like the words "issues
13 that are central to special education services."

14 MS. TAKEMOTO: As basic civil rights and
15 essential to special education. Okay, I understand
16 it now.

17 CHAIRMAN BRANSTAD: Does everybody else
18 understand it?

19 VOICES: No.

20 (Laughter.)

21 MR. JONES: If I could read it back in
22 part because this is what's going to go. This is

23

1 where we type. States and localities must treat
2 IDEA's least restrictive environment issues as basic
3 civil rights and essential to special education by
4 making LRE a matter of services rather than a matter
5 of procedural safeguards. Students with disabilities
6 are best served with their non-disabled peers
7 whenever possible or consistent with the individual
8 needs of the child or the wishes of the parent.

9 That's what I have recorded.

10 CHAIRMAN BRANSTAD: Does everybody
11 understand that now? Any further discussion? Yes,
12 Commissioner Grasmick?

13 MS. GRASMICK: I won't like myself if I
14 don't say this, and that is I totally agree with the
15 language of this. This is the accountability section
16 and I see too many students who are LRE and teachers
17 who do not know how to deliver an instructional
18 program and the results are not there, and the
19 students are more disadvantaged in that setting with
20 people who are not delivering high quality
21 instruction. So somehow I wish that we could weave
22 in the word "results."

23

1 CHAIRMAN BRANSTAD: Commissioner Hunttt?

2 MR. HUNTT: I agree with Commissioner
3 Grasmick. I'd like to see least restrictive and most
4 effective environment.

5 CHAIRMAN BRANSTAD: Do you have the
6 specific place you want to add that?

7 MR. HUNTT: As Todd was reading, I'd like
8 to say least restrictive and most effective
9 environment. Least restrictive doesn't always make
10 the best outcome.

11 CHAIRMAN BRANSTAD: Would that be accepted
12 as a friendly amendment?

13 MS. TAKEMOTO: I'm a little bit confused
14 and concerned because we're saying that if schools
15 don't know how to do it, then they don't have to do
16 it, they can still put them in the backwoods, because
17 no one supports bad education. I agree with you that
18 there are students that are in the back rooms but
19 there are also students who are wheeled from place to
20 place without any education happening, and that's not
21 a good thing. When you used terms called "most
22 effective" I liked what we were talking about that

23

1 lead to results in some way as opposed to making it a
2 matter of effective or just research-based
3 instruction. Something that has to do with
4 delivering results and not making it dependent on
5 whether or not they're going to be educated.

6 MS. GRASMICK: Demonstrated academic
7 results.

8 MS. TAKEMOTO: Where would you put that?

9 CHAIRMAN BRANSTAD: Demonstrated academic
10 results, where would that be inserted? Todd's got a
11 legal question here too.

12 MR. JONES: There's a bit of a problem
13 with the structure you're all describing. If you add
14 this as a modifier to least restrictive environment,
15 the discussion here is about IDEA's least restrictive
16 environment. We cannot modify IDEA by suggesting it
17 includes effective environment. IDEA says what it
18 says. It says LRE if you'd like to incorporate those
19 concepts, we'll have to do it separately and
20 differently than we've been talking about as
21 modifying LRE.

22 MS. TAKEMOTO: I think we can accommodate
23

1 Dr. Grasmick's very sage advice on page 8 within the
2 same paragraph. The last sentence would say, the
3 provision would include the requirement that school
4 systems provide results-based or researched-based
5 supplementary aid and services. No? Okay, sorry.

6 CHAIRMAN BRANSTAD: Dr. Coulter?

7 MR. COULTER: Let me offer, on page 7,
8 line 29, by making LRE a matter of effective
9 services, the problem here I agree Dr. Grasmick wants
10 to focus on the outcome but I think here this really
11 is talking about processes. I think you could say
12 effective services. The modifier could go with a
13 matter of blank services, I mean whatever language
14 you think will get to the point is fine.

15 CHAIRMAN BRANSTAD: So on page 7, line 29,
16 we add matter of results-based for services. Is that
17 it? That's a friendly amendment and without
18 objection, that's incorporated. I recognize
19 Commissioner Horn.

20 MR. HORN: As the Fletcher amendment was
21 read back, sa I understand, it used the word "or"
22 between "whenever possible" or consistent with
23

1 individual needs of the child. Shouldn't that be
2 and?

3 MS. TAKEMOTO: Yes.

4 CHAIRMAN BRANSTAD: That would also be
5 accepted sa a friendly amendment. Okay. Do you want
6 to read that one more time with the two friendly
7 amendments we just approved incorporated in it,
8 before we vote on it? Todd?

9 MR. JONES: States and localities must
10 treat IDE's least restrictive environment issues as
11 basic civil rights and essential to special
12 education, by making LRE a matter of services rather
13 than a matter of procedural -- okay, a matter --
14 that's where the problem is. Thank you. A matter of
15 results-based services rather than a matter of
16 procedural safeguards. Students with disabilities
17 are best-served with their non-disabled peers
18 whenever possible and consistent with the individual
19 needs of the child and the wishes of the parent.

20 CHAIRMAN BRANSTAD: Everybody understands
21 that. All in favor of that amendment signify by
22 saying aye.

23

1 (Chorus of ayes.)

2 CHAIRMAN BRANSTAD: Opposed?

3 (No response.)

4 CHAIRMAN BRANSTAD: It's approved.

5 Fletcher amendment number 18. Is somebody
6 going to handle that one? On page 8, lines 7 through
7 15 -- go ahead, Commissioner Takemoto.

8 MS. TAKEMOTO: That we had a modifier.

9 Parents need to be informed of alternatives to
10 segregated environments.

11 CHAIRMAN BRANSTAD: Where?

12 MS. TAKEMOTO: Wherever they can and
13 wherever they can.

14 CHAIRMAN BRANSTAD: What's the location in
15 the paragraph?

16 (Laughter.)

17 MS. TAKEMOTO: Sorry, couldn't help
18 myself.

19 (Laughter.)

20 CHAIRMAN BRANSTAD: Unfortunately, Dr.
21 Fletcher's amendments don't say where they go. He
22 didn't make that really clear. Do you want to just

23

1 not do it?

2 MS. TAKEMOTO: Okay. I withdraw.

3 CHAIRMAN BRANSTAD: The amendment is
4 withdrawn.

5 Fletcher 19. Does anybody want to do
6 that?

7 (No response.)

8 CHAIRMAN BRANSTAD: Reid Lyon?

9 MR. LYON: What I think he's clearly
10 saying is if they were segregated, given what we just
11 discussed, an attempt whenever possible and in the
12 most appropriate circumstances to educate the kids in
13 the least restrictive environment. In other words,
14 he's just saying is that which was most appropriate.
15 Does the IEP indicate that those environments were
16 the most results-based, effective and so on, is all
17 he's saying. I just want to make sure it gets a good
18 hearing here.

19 MR. GORDON: It sound to be also that what
20 he was saying is that was simply our supposition. We
21 didn't really gather evidence.

22 MR. BARTLETT: In defense of the language,
23

1 and I was somewhat responsible, not for drafting it,
2 but what I'm saying we asked clearly why they didn't
3 get sent to a segregated classroom, because they
4 didn't get sent there, they misbehaved, they've had a
5 substitute teacher for two years, and we just really
6 don't know what to do with them.

7 So, I mean I guess the point, citing what
8 we personally observed, is that that's unfortunately,
9 this is a Commission to improve special education in
10 America. What we saw is not necessarily the
11 exception. It is too often the norm -- segregation
12 because a school doesn't know what else to do with
13 them and doesn't measure it and is not held
14 accountable for the results. There are exceptions to
15 that. There are plenty of schools that do have
16 success stories but in too many cases, they simply
17 move to the temporary building.

18 MR. GORDON: I'm not objecting to it, I'm
19 just trying to speculate on what Dr. Fletcher wants
20 it.

21 CHAIRMAN BRANSTAD: Commissioner Bryan?

22 MS. BRYAN: I think the concern is we're
23

1 second guessing an IEP. And we need to be careful
2 that we don't second guess somebody else's IEP.

3 MR. BARTLETT: I would hope that we do
4 have a federal law that clearly allows in our current
5 enforcement and accountability for IEPs that puts
6 students in segregated classrooms with substitute
7 teachers with no instruction for two years, that's
8 the reality we're trying to fix, that's the harsh,
9 cold reality. It pains me to have to say it but
10 that's what the reality is and that's what we're
11 trying to improve.

12 CHAIRMAN BRANSTAD: Dr. Coulter?

13 MR. COULTER: I would add I think this
14 document is important in principle in saying that
15 yes, we will second guess IEP teams if they make
16 inappropriate decisions. That's what this whole
17 Commissioner is about, trying to make the situation
18 better. IEP teams do not have unilateral authority
19 to make decisions that either violate the law or are
20 bad practice. I think the theme is clear.

21 CHAIRMAN BRANSTAD: Commissioner Horn?

22 MR. HORN: As a friendly amendment, I
23

1 think what Commissioner Fletcher is trying to get at
2 is the question of whether there was an index study
3 of any of these cases that were observed. If you
4 inserted the word "apparent" before justifiable, so
5 that it read no apparent justifiable education
6 purpose.

7 CHAIRMAN BRANSTAD: That's accepted as a
8 friendly amendment. That's an amendment to this
9 section rather than an amendment to the Fletcher
10 amendment, correct?

11 MR. JONES: The Fletcher amendment hasn't
12 been moved.

13 CHAIRMAN BRANSTAD: We'll take that as a
14 motion. Is there a second?

15 MR. HASSEL: There's a second.

16 CHAIRMAN BRANSTAD: Discussion?

17 (No response.)

18 CHAIRMAN BRANSTAD: All in favor, signify
19 by saying aye?

20 (Chorus of ayes.)

21 CHAIRMAN BRANSTAD: Opposed?

22 (No response.)

23

1 CHAIRMAN BRANSTAD: It's approved. It is
2 then your consensus not to move the Fletcher
3 amendment? Okay. We will just move on.

4 Fletcher 20, page 8, lines 21 to 25.
5 Comment on that? Commissioner Takemoto?

6 MS. TAKEMOTO: I think what Dr. Fletcher
7 is recommending here, if we have to think through how
8 we would change that language or simplify that
9 language, there's going to be a new discussion that
10 we have not had an opportunity to discuss in the task
11 forces. I would recommend that we do not accept that
12 amendment.

13 CHAIRMAN BRANSTAD: Commissioner Horn?

14 MR. HORN: I just feel I need to make a
15 statement on the record here for this report about
16 this issue. I think that this report is
17 unfortunately this is what Jack Fletcher is getting
18 at. And I apologize if this sounds too harsh,
19 woefully inadequate when it comes to a discussion of
20 children with behavioral difficulties. And I think,
21 for example, there's no discussion that I see where
22 we talk about implementing school-wide behavioral

23

1 management programs to prevent behavioral problems or
2 dealing with kids with behavioral problems in the
3 context of school-wide behavioral management systems
4 which have been proven to be not only effective but
5 extremely cost-effective. There's nothing in this
6 document that I can see that suggests that there's a
7 great understanding about that. Absent that, I just
8 get concerned about this paragraph.

9 CHAIRMAN BRANSTAD: Commissioner Takemoto?

10 MS. TAKEMOTO: I'm very thankful to Dr.
11 Fletcher for I think my understanding when we talk
12 about early intervention for this, we're talking
13 about reading. Dr. Fletcher has done an excellent
14 job in his task force's section that really does
15 speak to school-based behavioral problems,
16 intervention programs in a powerful and convincing
17 way. And I applaud those. I just don't see that.
18 It just would take a long time to think about how we
19 would go about or how we would support diluting the
20 existing safeguards that are in place for the
21 purposes of trying to get this report here. But I do
22 think that Dr. Fletcher has done a great job of
23

1 addressing the issues of behavior and the research-
2 based success of school behavioral support plans or
3 programs.

4 MR. COULTER: It's on page 31. I think
5 unfortunately, what we're talking about is a
6 different part of the report. This is the
7 accountability section.

8 CHAIRMAN BRANSTAD: Commissioner Hassel?

9 MR. HASSEL: I agree with other
10 commissioners that it's too late to craft
11 recommendations about discipline. We didn't have a
12 task force on it, we didn't have testimony, but we
13 ought to have some kind of acknowledgment perhaps in
14 the introduction that there are lots of issues
15 including this one that we don't take up in this
16 report. We focus on certain things. We should
17 acknowledge that and probably should specifically
18 acknowledge that we did not take up discipline, not
19 because it's not important but because we only had
20 that much time and resources.

21 CHAIRMAN BRANSTAD: Commissioner
22 Butterfield?

23

1 MR. BUTTERFIELD: I agree with
2 Commissioner Hassel. I think since it hasn't been
3 dealt with in depth, I agree that we should perhaps
4 make that a part of summaries of some of the issues
5 that we were not able to deal with. I know that's a
6 major concern in schools across the nation. It might
7 be a subject for greater study, but we haven't had,
8 we've dealt mainly with the academic.

9 MR. BARTLETT: Mr. Chairman?

10 CHAIRMAN BRANSTAD: Commissioner Bartlett?

11 MR. BARTLETT: In light of the
12 Commission's discussion, I think for a whole series
13 of reasons, we really did not deal with the
14 discipline and behavior modification issues in this
15 report perhaps because it's the subject of a whole
16 new Commission. Given that, probably a more
17 appropriate text that supports our recommendation and
18 describes our recommendations would be to end this
19 sentence or this paragraph on line 23 with the words
20 "for disciplinary reasons." If you look through the
21 rest of the paragraph, it either does not follow
22 anything else or it does not support any of our

23

1 recommendations or it's just sort of sitting there by
2 itself. Some of the other words I agree with, some I
3 don't agree with. Some of the individual
4 Commissioners, we really never dealt with anything
5 there, so I don't think we should try to fix it.
6 That was an area we just didn't get to.

7 CHAIRMAN BRANSTAD: You're recommending we
8 delete everything after "reasons" on line 23, so the
9 rest of page 8 and the top of page 9 would go --

10 MR. BARTLETT: I think it's either
11 redundant or it is not supported by anything that
12 we've done.

13 CHAIRMAN BRANSTAD: Is there a second to
14 that motion?

15 MS. TAKEMOTO: Second.

16 CHAIRMAN BRANSTAD: Seconded by
17 Commissioner Takemoto. Recognize Commissioner
18 Takemoto.

19 MS. TAKEMOTO: To some extent, because all
20 the Commissioners did not attend all the task force
21 meetings, we all do not have a picture of this whole
22 development but I think that when we get to Dr.

23

1 Fletcher's report, we will see that that task force
2 did discuss and consider the behavioral issues quite
3 clearly. Our task force on accountability did not,
4 so I think the record is that our task force didn't,
5 but the other discussion is very well thought out and
6 laid out.

7 CHAIRMAN BRANSTAD: Commissioner Hunttt?

8 MR. HUNTT: Thank you, Mr. Chairman. I
9 don't mean to prolong this but I'm not quite sure
10 that says what we want it to say. For instance, if a
11 child in special ed is using drugs and is expelled
12 from school, are we saying we can't do that because
13 he or she is on a special ed program? We're saying
14 that we can't discipline kids in special ed for any
15 reason. First of all, I don't want to see any
16 student expelled because of his or her disability.
17 But I think if we throw that out, then we're opening
18 up to kids not being expelled for disciplinary
19 reasons.

20 MR. BARTLETT: Commissioner Hunttt, that's
21 why I'm suggesting we stop and not go there. We stop
22 after the word "reasons." The rest of the sentence
23

1 gets us into a swamp we're not quite sure where we
2 are. I'm not suggesting we can fix it, I'm just
3 saying we delete it. We don't add anything by trying
4 to talk about it, because we haven't figured out what
5 we want to say. We have to get one thing we want to
6 say; that's the first half of the sentence: No Child
7 Left Behind. The basic principle of providing
8 special education services to children who are
9 excluded from the current placement for disciplinary
10 reasons. We do want to say that. Beyond that, I
11 don't know where else we want to go, so we don't have
12 to take a position either way. We can just stop.

13 CHAIRMAN BRANSTAD: Commissioner Flemming.

14 MR. FLEMING: I think we also have to keep
15 in mind that when we're really talking about
16 discipline or something with reference to drugs,
17 that's also a legal matter and usually it's going to
18 be recorded through discipline, but also through
19 possibly the breaking of the law. That definitely is
20 not something we've actually discussed in our
21 Committee.

22 CHAIRMAN BRANSTAD: Commissioner Huntt, do
23

1 you still want the floor?

2 MR. HUNTT: Yes, sir. I'm still not sure
3 if my concern's addressed. It seems to me as I read
4 it, and I'm trying to understand and maybe I'm just
5 not getting it, but it seems to me what we're saying
6 here is that a child in special ed cannot be removed
7 from the current educational placement based on
8 disciplinary reasons. Disciplinary reasons could be
9 a whole host of reasons that have nothing to do with
10 his or her disability.

11 CHAIRMAN BRANSTAD: Commissioner Horn?

12 MR. HORN: I don't know if this is what
13 anybody intends, but it is what the sentence says.
14 What you need to do is modify if the behavior in
15 question is related to his or her disability. If you
16 don't have that modification in there, and just
17 simply being in special ed, prevents removal from a
18 current educational placement or school for
19 disciplinary reasons, for any reason.

20 MR. HUNTT: So if you want to say, due to
21 their disability, I'm happy with that.

22 CHAIRMAN BRANSTAD: You're accepting that

23

1 as a friendly amendment?

2 MR. BARTLETT: If I could modify it. I
3 understand. I'm sorry. On line 23, I think the way
4 to fix it is to say excluded from educational
5 services for disciplinary reasons. You do often have
6 to change the educational placement for disciplinary
7 reasons; that's obvious. You just can exclude them
8 from educational services. I would amend it to say
9 providing educational services to children who are
10 excluded. Doug, I think it says what you're trying
11 to say. And that is, you have to provide educational
12 services. If you have to take them out of their
13 current educational placement, then you have to
14 provide them services. That's what it says now.

15 MR. PASTERNAK: I think part of the
16 problem I'm having is that the word "excluded" should
17 not be there, it should be removed because the whole
18 point of the discipline provisions is not to exclude
19 kids from acceding the appropriate education to which
20 they are entitled even when they are removed from
21 school for disciplinary reasons. We, as a
22 Commission, have decided not to get into the

23

1 discipline issue and I want to use this as a quick
2 opportunity to remind the Commissioners that I would
3 invite you all to participate with us in the
4 reauthorization process where we will have a great
5 deal more opportunity to discuss all of these
6 wonderfully important issues in great detail.

7 Based on today's meeting and now that
8 we're on page 8, and it's 2:30, I can see that I'm
9 going to get a lot older during this reauthorization
10 process. I think the whole point is what is the best
11 public policy. Right now, what the law and the
12 regulations require is that you can remove kids from
13 school for disciplinary reasons, but you cannot cease
14 providing the services to which they are entitled.

15 So I think that semantics here, as Commissioner
16 Grasmick reminded us during our last meeting, are
17 critically important and the word "excluded" should
18 not be there, it should be removed. Then we can get
19 to Commissioner Huntt's excellent point.

20 CHAIRMAN BRANSTAD: Do you accept that as
21 a friendly amendment?

22 MR. BARTLETT: Yes.

23

1 CHAIRMAN BRANSTAD: So we change
2 "excluded" to "removed." Now we're back to
3 Commissioner Huntt.

4 MR. HUNTT: Thank you, Mr. Chairman. I
5 think that Commissioner Bartlett, if we could put for
6 disciplinary reasons related to his or her
7 disability, I would be a little more comfortable with
8 it. If you take a literal interpretation of what's
9 written right there, it would be that kids could not
10 be removed from school if they're in special ed for
11 disciplinary reasons, period.

12 MS. TAKEMOTO: We've done removed.

13 (Pause.)

14 CHAIRMAN BRANSTAD: Does Commissioner
15 Bartlett want to comment on that? Do you accept
16 that?

17 MR. BARTLETT: Commissioner Huntt, I
18 don't, because I think the school has to provide --
19 it ought to be required to provide an educational
20 service to a student who is removed from the regular
21 placement for whatever reason, whether it's for
22 disciplinary reasons, whether it was because it was

23

1 the third Tuesday, or whatever reason. I don't think
2 it requires a modifier whether it's related to a
3 disability or not. You still have to provide
4 services.

5 CHAIRMAN BRANSTAD: Commissioner Gordon?

6 MR. GORDON: I think one difficulty is to
7 say school. What Bob Pasternack was trying to get
8 at, the school district is obligated to providing
9 services, not necessarily at the same building. I
10 think if you take out "school"?

11 CHAIRMAN BRANSTAD: Is that acceptable,
12 Mr. Huntt?

13 MR. HUNTT: I thought we were ending the
14 sentence after "disciplinary reasons." School is one
15 line 24, is that not correct? Yes, I accept.

16 CHAIRMAN BRANSTAD: You'd accept that
17 then?

18 MR. HUNTT: Absolutely.

19 CHAIRMAN BRANSTAD: Okay. We're taking
20 school out, is that right, and that is accepted as a
21 friendly amendment?

22 MR. BARTLETT: Yes.

23

1 CHAIRMAN BRANSTAD: With that, it's
2 acceptable to you, Commissioner Hunt?

3 MR. HUNTT: Yes.

4 CHAIRMAN BRANSTAD: Are we ready to now
5 vote on this amendment? Commissioner Bartlett moves
6 the amendment. All those in favor of the amendment,
7 as amended, signify by saying aye.

8 (Chorus of ayes.)

9 CHAIRMAN BRANSTAD: Opposed, nay?

10 (No response.)

11 MR. FLEMING: Abstain.

12 CHAIRMAN BRANSTAD: The ayes have it.

13 Fletcher 21, page 9, lines 8 and 9. Does
14 anybody want to move this or comment on it?

15 (Pause.)

16 CHAIRMAN BRANSTAD: Do you want to just
17 not take this up? If nobody wants to move it, we'll
18 just proceed.

19 MR. BUTTERFIELD: On line 5, shouldn't
20 that be students?

21 CHAIRMAN BRANSTAD: Line 5, students.
22 Should be students instead of student, and we're not

23

1 going take up the Fletcher amendment. Nobody chooses
2 to move that.

3 MR. GORDON: I only have one suggestion.
4 We may want to make the language he used here
5 consistent with the language we used, the results-
6 based, whatever it was, and add that in there on page
7 6 or 7. It was the bottom of page 7 and the top of
8 page 8, however we characterized the LRE.

9 MR. JONES: I might make a suggestion to
10 that end. Making LRE focus on result-based services,
11 would that accomplish your purposes?

12 MR. GORDON: Yes.

13 CHAIRMAN BRANSTAD: Commissioner Gordon
14 moves that. Is there a second?

15 MR. BUTTERFIELD: Yes.

16 CHAIRMAN BRANSTAD: Commissioner
17 Butterfield seconds it. Discussion?

18 (No response.)

19 CHAIRMAN BRANSTAD: All in favor of that
20 motion, signify by saying aye.

21 (Chorus of ayes.)

22 CHAIRMAN BRANSTAD: Opposed?

23

1 (No response.)

2 CHAIRMAN BRANSTAD: It is approved. We're
3 now on Takemoto 7.

4 MS. TAKEMOTO: This amendment is being
5 added to add language in the text to support the
6 language in the recommendation that I moved to insert
7 at the beginning. Do I need to read it, or can we
8 work with it and fix my language where needed? It
9 would be somewhere in page 9. This is the improved
10 idea process so it would go after the paragraph that
11 begins "parent contact begins with the IEP ..." That
12 was the language that Dr. Gordon prepared at the last
13 meeting. It would go in the next paragraph, so that
14 would be line 17.

15 CHAIRMAN BRANSTAD: It's a new paragraph
16 inserted between line 16 and line 18. Is that
17 correct?

18 MS. TAKEMOTO: Yes.

19 MR. BARTLETT: Mr. Chairman, I'd move
20 approval of the paragraph.

21 MR. COULTER: Second.

22 CHAIRMAN BRANSTAD: It's moved by

23

1 Commissioner Bartlett. Second by Commissioner
2 Coulter. Discussion?

3 MR. COULTER: I just want to say this will
4 solve a problem for me. The way this was worded, we
5 had an emphasis. It seemed like an overemphasis only
6 on binding arbitration. What we're trying to say is
7 that there are a variety of methods for dispute
8 resolution so I really like this.

9 CHAIRMAN BRANSTAD: Further discussion?
10 Commissioner Chambers?

11 MR. CHAMBERS: I just have a question. Is
12 the Commission recommending that all IEPs be
13 facilitators? Is that what this is suggesting? I'm
14 confused.

15 CHAIRMAN BRANSTAD: Commissioner Takemoto?

16 MS. TAKEMOTO: Do you want to speak to
17 this, Dr. Gordon? This was part of your
18 recommendation and discussion at our last meeting.

19 MR. GORDON: It didn't intend to imply the
20 need to hire legions of new people, just training the
21 people we have in different ways.

22 MR. CHAMBERS: I'm talking about the
23

1 sentence, the second sentence in the first paragraph.
2 It wasn't so much this paragraph that Cherie just
3 proposed, but the Commissioner recommends IDEA
4 support training for skilled facilitators to run IEP
5 meetings in a way that parents and staff -- that
6 seems perfectly reasonable. I guess I was just
7 wondering are we going any further with that or does
8 that apply to all IEP meetings should have a
9 facilitator? Maybe they already do.

10 MR. GORDON: Again, I think more the
11 intent of it was not to hire new people but the
12 people who do run the meetings be trained in a
13 collaborative rather than adversarial fashion and
14 that that be pushed for in the law. And districts
15 begin to take that approach.

16 CHAIRMAN BRANSTAD: If we're ready, we
17 have a new paragraph that's been I guess proposed by
18 Commissioner Takemoto, moved by Commissioner
19 Bartlett, seconded by Commissioner Coulter. To add
20 this new paragraph between lines 16 and 18. All
21 those in favor of this motion, signify by saying aye.

22 (Chorus of ayes.)

23

1 CHAIRMAN BRANSTAD: Opposed?

2 (No response.)

3 CHAIRMAN BRANSTAD: It is approved.

4 MR. JONES: The next one is Takemoto 8.

5 MS. TAKEMOTO: This is on page 10, line
6 21. If we're going to use the term "wholeheartedly
7 agree" that means that we're all just dying to get
8 binding arbitration. This Commissioner is willing to
9 defer to the desire of the rest of the Commission to
10 support a try at this binding arbitration business
11 but I don't necessarily wholeheartedly agree, so I
12 would wholeheartedly suggest that we take
13 wholeheartedly out of the sentence.

14 CHAIRMAN BRANSTAD: Is that a motion?

15 MS. TAKEMOTO: I move.

16 MR. BUTTERFIELD: Second.

17 CHAIRMAN BRANSTAD: Moved and seconded by
18 Commissioner Butterfield. Discussion?

19 (No response.)

20 CHAIRMAN BRANSTAD: All in favor of
21 deleting "wholeheartedly" just the word
22 "wholeheartedly"; "agrees" is fine. Wholeheartedly

23

1 goes.

2 MS. TAKEMOTO: I'm sorry, can we think --
3 I'm just willing to give it a try. I'm just not
4 ready to jump in.

5 CHAIRMAN BRANSTAD: I think "agrees" is
6 fine.

7 MS. TAKEMOTO: Just take out strongly.

8 CHAIRMAN BRANSTAD: You want to take out
9 wholeheartedly and strongly? Is that acceptable?

10 MR. BARTLETT: I wholeheartedly agree.

11 MR. COULTER: And I strongly second.

12 CHAIRMAN BRANSTAD: The motion now deletes
13 both wholeheartedly and strongly. You've got to go
14 while you're going. Discussion?

15 (No response.)

16 CHAIRMAN BRANSTAD: All in favor of the
17 motion, signify by saying aye.

18 (Chorus of ayes.)

19 CHAIRMAN BRANSTAD: Opposed?

20 (No response.)

21 CHAIRMAN BRANSTAD: It is approved.

22 MR. JONES: That's the section, Mr.

23

1 Chairman.

2 CHAIRMAN BRANSTAD: We now vote on the
3 full section. Are there any other amendments?

4 MR. BARTLETT: Mr. Chairman?

5 CHAIRMAN BRANSTAD: I will recognize
6 Chairman Bartlett, the Chairman of this task force,
7 for final remarks.

8 MR. BARTLETT: When we discussed the LRE
9 Section in the recommendations, there was some
10 discussion, as I recall, led by Commissioner Horn,
11 that suggested that we should put in some clarifying
12 language, that 100 percent of LRE is not the goal.
13 So I kind of took note of that and that would go into
14 page 9. If the Commission is interested in doing
15 that, it would clarify what we earlier discussed. It
16 would read something like this, if I can read my
17 writing, which is pretty unlikely, something like:

18 CHAIRMAN BRANSTAD: What line?

19 MR. BARTLETT: On page 9 at line 10.
20 Since that's the LRE line. Commissioner Horn, this
21 is what I was trying to write down, as you were
22 discussing it. Something like 100 percent inclusion

23

1 of special education students in the mainstream is
2 not necessarily the goal of the least restrictive
3 environment. But the Commission finds that the rate
4 of LRE in some states or in many states, I would say,
5 is wholly unsatisfactory. States should place and
6 this is the text for it. It's not recommendation.
7 States should place an additional emphasis on
8 including students with disabilities in mainstream
9 settings.

10 In other words, what we said earlier was
11 that 100 percent is not the goal. I think we ought
12 to say that, I agree with that. That's true. Since
13 it's true, we ought to say it but we also ought to
14 say that we find that in many states the rate of
15 inclusion is not satisfactory. We encourage states
16 to place an additional emphasis on higher levels of
17 inclusion, higher levels of mainstreaming.

18 CHAIRMAN BRANSTAD: Any comments on that?
19 Commissioner Gordon?

20 MR. GORDON: I agree with that. I just
21 think it belongs more back in the section on page 7
22 and 8. The section there on page 9 talks about it

23

1 with reference to children in foster care. So I
2 think it fits better in the section that we edited so
3 heavily, perhaps after that paragraph that ends on
4 the top of page 8, somewhere on that page.

5 MR. BARTLETT: I agree.

6 MR. LYON: I don't know if it does any
7 better with 100 percent, Commissioner Bartlett. If
8 we don't explicitly talk about percentages, see if
9 this works. LRE is a dimensional concept. The least
10 restrictive environment for one student with
11 disabilities may mean regular classroom while another
12 student may respond to services or effective services
13 and/or instruction in a tutorial or a small group
14 setting. That is to give the example that LRE is
15 dimensional. It's not either/or. It's not full
16 inclusion. I then go on to say there's a critical
17 need to identify which instructional settings and
18 student/teacher ratios are most directly related to
19 outcomes for individual students. That may be a
20 little too flowery or too obtuse. But that's what
21 we're talking about, you know. LRE is mentioned.

22 CHAIRMAN BRANSTAD: Do you accept that as

23

1 a friendly amendment?

2 MR. BARTLETT: I would accept that as an
3 addition. Let me say two things. First, our goal is
4 not 100 percent of all students in mainstream but
5 second that we generally find that the rate of
6 inclusion is unacceptable in many states. I'm trying
7 to say those two things also in addition to the
8 outcome base that you're adding on, so I accept that
9 as an addition but not a replacement.

10 MR. LYON: Could we say after, not 100
11 percent, we could then reinforce that by saying LRE's
12 a dimensional concept, or one could just say the
13 least restrictive environment for one student with
14 disabilities may be the regular classroom with full
15 inclusion while another student may respond to
16 services and/or instruction in a tutorial or small
17 group setting. There is a critical need to identify
18 which instructional settings and student/teacher
19 ratios are most directly linked to positive or
20 productive outcomes for the student, and then your
21 last phrase would follow behind that.

22 MR. BARTLETT: I'd leave it to staff to

23

1 put the words and sentences in the order as long as
2 you get both concepts, the outcome in the one that
3 100 percent is not the goal, but that we find that
4 the rate of inclusion in many states is wholly
5 unsatisfactory. If we get the wholly unsatisfactory
6 words in, I'll be happy.

7 CHAIRMAN BRANSTAD: Let me just ask what
8 we've got right now is an amendment that Bartlett has
9 offered with a change in location offered by Gordon
10 with additional information which has been accepted
11 as a friendly addition by Reid Lyon. Is that
12 acceptable to everybody? Ed Sontag?

13 MR. SONTAG: I understand the discussion
14 on instructional time, and some children need
15 instructional time in different places, but I think
16 if we begin to change some of the basic concepts of
17 this law, it's not going to be good politics or good
18 policy. In other words, one of the more
19 incomprehensible parts of the law that makes it so
20 wonderful is the concept of all. It's been there
21 from the beginning, and I think if we begin to say
22 less than 100 percent, we're beginning to chip away
23

1 at Brown versus The Board of Education. If you look
2 at the history of this law, that part of the law came
3 out of Brown. Tom Milheu, who was the architect of
4 the Pennsylvania Consent Decree, has talked about
5 that for decades, and I think we're beginning to
6 tinker with a very precious concept. I don't support
7 Congressman Bartlett's giving away the number. I
8 think it's bad politics for us to start saying we
9 don't want 100 percent. We're not talking about
10 functionality, we're not talking about instructional
11 strategies, we're talking about a basic civil rights
12 component of this act.

13 CHAIRMAN BRANSTAD: Commissioner Bartlett,
14 would you like to respond to Mr. Sontag?

15 MR. BARTLETT: I don't want the word to
16 change "least restrictive environment." What I'm
17 trying to say is what everyone knows to be true, that
18 is that 100 percent of special ed students in a
19 mainstream classroom is not the goal of least
20 restrictive environment. Least restrictive
21 environment is the least restrictive environment for
22 individual students. That's what I'm trying to say.

23

1 Perhaps I worded it clumsily. I'm on the side of
2 believing that way too many students are put into a
3 segregated environment, but I also believe in many
4 individual cases a student's least restrictive
5 environment is an individual teaching course that's
6 individualized for that student. That's the least
7 restrictive environment in many cases. I don't want
8 to do anything that changes LRE. I want to say that
9 LRE does not mean 100 percent of students and 100
10 percent of mainstream classrooms.

11 CHAIRMAN BRANSTAD: Commissioner Takemoto?

12 MS. TAKEMOTO: The language in the law,
13 what you're saying is that you think not the law, as
14 it pertains to you do not remove students unless it's
15 necessary, that's in the paragraph of the law that I
16 just handed to you is what you think we need to
17 affirm and maintain.

18 MR. SONTAG: I'm saying if we tinker with
19 the concept and begin to define less than 100
20 percent, we're going to send a message that we don't
21 mean all. I essentially say this is a civil rights
22 issue and we shouldn't begin to quantify that. In
23

1 other words, integration is defined under Brown; it
2 didn't say 98 percent, it didn't say less than 100
3 percent. I think we're tinkering with a concept that
4 we'll wake up one morning and wish that we hadn't
5 tinkered with.

6 CHAIRMAN BRANSTAD: Commissioner Hassel?

7 MR. HASSEL: Commissioner Bartlett, can
8 you repeat what we're saying we don't believe should
9 be 100 percent?

10 MR. BARTLETT: Thank you, Commissioner.
11 In fact, I just started a new sentence. Perhaps the
12 way to start it would be something like, least
13 restrictive environment is a law that applies to all
14 students. What I'm saying is, and perhaps I'm saying
15 it clumsily is that the goal of least restrictive
16 environment is not a 100 percent inclusion of all
17 special education students in a mainstream classroom
18 at all times. That's what I'm trying to say.

19 Least restrictive environment is a pullout
20 for reading special services is not the least
21 restrictive environment is not the temporary building
22 in the back for the kids that can't read, but it is a

23

1 pullout for an hour-a-day reading session for a kid
2 that can't read.

3 CHAIRMAN BRANSTAD: Commissioner Flake?

4 MR. FLAKE: I realize that it would be
5 impossible to accommodate 100 percent. The question
6 is why do you have to put the language in the
7 recommendation? I don't see why it has to be there
8 stating specifically 100 percent. I think Ed and I
9 are having the same problem in terms of stating it.
10 Do we have to state it? It seems like a negative to
11 me that does not have to be applied.

12 MR. BARTLETT: Mr. Chairman, perhaps I
13 could make a motion to close this section, with the
14 exception of this paragraph, and then Commissioner
15 Lyon and Commissioners Sontag and Flake and I can
16 come back to the Commission again at the end of the
17 day if we can come up with language we can all agree
18 to? If not there's no harm to not including it. It
19 is an add that would make it better, but there's no
20 harm to not saying anything. Give us until the end
21 of the day. We'll see what we can come up with.

22 CHAIRMAN BRANSTAD: We'll defer on this

23

1 particular issue. It would be the expectation that
2 you'll come back with a consensus recommendation to
3 present to the full Commission before we conclude our
4 work today.

5 CHAIRMAN BRANSTAD: Commissioner Hunttt?

6 MR. HUNTT: One additional minute, please.
7 This is my last chance ever to probably edit
8 Commissioner Bartlett. I'd like to take that
9 opportunity with regard to page 7, line 24. Parental
10 choice programs with federal funds while preserving
11 basic civil rights. I'd like to say the students'
12 basic civil rights because that's what we're talking
13 about. Line 24, presuming the students' basic civil
14 rights.

15 MR. BARTLETT: I accept that.

16 CHAIRMAN BRANSTAD: Okay. Commissioner
17 Hunttt moves and Commissioner Bartlett seconds the
18 amendment that adds "students' basic civil rights."
19 Add students to that provision that says basic civil
20 rights. Discussion?

21 (No response.)

22 CHAIRMAN BRANSTAD: All in favor of the
23

1 motion, signify by saying aye.

2 (Chorus of ayes.)

3 CHAIRMAN BRANSTAD: Opposed?

4 (No response.)

5 CHAIRMAN BRANSTAD: It is approved.

6 MR. PASTERNAK: Mr. Chairman?

7 CHAIRMAN BRANSTAD: Commissioner

8 Pasternack?

9 MR. PASTERNAK: In front of you, you have
10 32 pages of technical edits that I've prepared for
11 the Commission which we haven't had a chance to look
12 at. That's fine. However, as an example, an issue
13 that we've been talking about page 9, line 8 would
14 read "based on the technical edits I have proposed,
15 making LRE appropriate to service would remove
16 children with disabilities to the most integrated
17 setting possible. I believe that may be the kind of
18 language that Commissioner Bartlett is looking for as
19 a way of encouraging, the people encouraging
20 integrating children with their non-disabled peers to
21 the maximum extent appropriate. I know we've been at
22 this awhile. However, of the 32 pages of technical

23

1 edits that you all are receiving includes little
2 changes like that. I wonder if this might be at
3 least a moment to ask the Commission's indulgence to
4 at least take a look at some of the things that I'm
5 suggesting here as technical edits because we spent a
6 lot of time talking about LRE. That, to me, makes a
7 simple change. It's sending an important message to
8 folks and that sentence would then read, making LRE
9 appropriate services will move children with
10 disabilities to the most integrated setting possible.
11 A simple change. I just wanted to let people think.

12 MR. LYON: Based on the individual
13 student's needs?

14 MR. PASTERNAK: Yes. As I think,
15 Commissioner Lyon, I said this morning, these are all
16 individualized decisions made by IEP teams including
17 the parent and the student based on data and the best
18 evidence possible. We can get back to that issue
19 later. But I don't know how the Commission wants to
20 proceed.

21 CHAIRMAN BRANSTAD: My suggestion would
22 be, instead of taking up all these technical

23

1 amendments individually, that we basically handle
2 those as a group at the end. Is that acceptable?
3 I'm concerned, I mean, I been through this in the
4 legislative process and seen what happens when you
5 start doing the technical amendments and you can get
6 bogged down. Yes, Commissioner Takemoto?

7 MS. TAKEMOTO: You asked us possibly to
8 meet into the wee hours of the night. I'm wondering
9 perhaps if we can work into the wee hours of the
10 night to take a look at these technical amendments
11 and consider them tomorrow as an exception basis if
12 there's anything that anybody doesn't like about any
13 of these things, we can discuss it. But other than
14 that, we would accept anything.

15 CHAIRMAN BRANSTAD: I think that's fine,
16 but I think we need to probably have a chance to
17 review them. I think your suggestion's a good one.
18 Review them overnight or whatever to make sure that
19 there's not anything in there. I remember people in
20 the legislature also saying, well this is just a
21 technical amendment. We brought in LaVern Schroeder
22 who is known to have gotten pretty surprising things
23

1 done that nobody else knew was happening because of
2 these technical amendments. I think it's appropriate
3 for people to review them very carefully but I think
4 your suggestion is a good one. We can take them up.
5 Is that acceptable with you? This is eventually
6 going to be all folded into it. Commissioner Flake?

7 MR. FLAKE: Mr. Chairman, I regret that I
8 will have to leave. As you know, I'm dealing with a
9 transition issue. I would like for the Chair to
10 offer proxy votes on my behalf if that is
11 appropriate.

12 CHAIRMAN BRANSTAD: Thank you.

13 MR. GORDON: I would make the same
14 request.

15 CHAIRMAN BRANSTAD: Without objection, I'd
16 be glad to accept that. Thank you very much. Good
17 luck.

18 MR. BARTLETT: Mr. Chairman, I move the
19 adoption of the section and close the section adopted
20 as amended by the Commission with the exception of
21 the additional language that may be presented by
22 Commissioner Lyon, Commissioner Sontag and myself

23

1 subsequently.

2 MR. HUNTT: Second.

3 CHAIRMAN BRANSTAD: There's a second by
4 Commissioner Hunt, moved by Commissioner Bartlett,
5 seconded by Commissioner Hunt to adopt with the
6 exception of the one area that's going to be brought
7 back to us, the accountability, flexibility, and
8 parental empowerment section discussion and the
9 technical amendments. The technical amendments of
10 that section is going to be reviewed overnight and
11 taken up later.

12 If there's no further discussion, all in
13 favor of that motion signify by saying aye.

14 (Chorus of ayes.)

15 CHAIRMAN BRANSTAD: Opposed?

16 (No response.)

17 CHAIRMAN BRANSTAD: It is approved. Thank
18 you. We go on to the next section and the first
19 amendment is Berdine number 3.

20 MR. BARTLETT: Mr. Chairman, while we're
21 looking for our paperwork, it would be useful if
22 Secretary Pasternack could provide us with a footnote

23

1 telling which of his technical amendments were not
2 actually technical and which ones we have to read.

3 MR. PASTERNAK: Technically speaking,
4 they're all technical.

5 CHAIRMAN BRANSTAD: I'm sorry, that may
6 have implied something that wasn't fair. I don't
7 want to ascribe LaVern Schroeder to Bob Pasternack,
8 so Bob, accept my apologies.

9 MR. PASTERNAK: Duly noted. It starts out
10 by saying "a note from Todd Jones" and it goes below
11 are the recommended changes from Bill Berdine. I
12 found it. It took me a little while. I should be in
13 your packet that you received.

14 MS. TAKEMOTO: There are two sets of
15 Berdine amendments. One is just what I printed out.

16 CHAIRMAN BRANSTAD: This is Berdine Number
17 3. Federal Regulatory Section, page 12, line 14.
18 Starting with, including a unified system of services
19 birth through 21, ending on line 16, with substantive
20 outcomes. The term "unified system" may imply a
21 rigidly formal hierarchy when what was discussed in
22 the hearings was a continuum of services. It says

23

1 substitute unified continuum of services for unified
2 system of services. Commissioner Takemoto?

3 MS. TAKEMOTO: As a point of order, I have
4 recommended the suggestion of an amendment that deals
5 with three later on, birth through 21 later on. I'm
6 wondering if we could take a look at that and decide
7 whether or not we want to delete it in this
8 recommendation.

9 CHAIRMAN BRANSTAD: That is Takemoto 1 for
10 this section.

11 (Pause.)

12 CHAIRMAN BRANSTAD: Why don't we look at
13 yours as well and decide which one we want to look
14 at. I'll recognize Commissioner Takemoto for her
15 amendment.

16 MS. TAKEMOTO: Would you like me to read
17 it?

18 CHAIRMAN BRANSTAD: Sure.

19 MS. TAKEMOTO: The reason I'm offering
20 this amendment is I think everyone that I've spoken
21 to on the Commission, and I think everyone is pretty
22 much in support of the early intervention program.

23

1 Rather than making it a stepchild of this report,
2 that it deserves its own recommendation so my
3 recommendation would be that we create a seamless
4 IDEA system from birth to age 21. We permanently
5 authorize Part C with flexible use of funds to
6 support birth to five programs. And we strengthen
7 interagency collaboration at the federal level.

8 CHAIRMAN BRANSTAD: Commissioner Chambers?

9 MR. CHAMBERS: I just talked to Doug Gill
10 on the phone with relation to some of the finance
11 recommendations in which he talks about some of the
12 same issues. He expressed concern, given the fact,
13 at least with respect to Part C, that about half the
14 states, maybe not exactly half, but it's certainly
15 split between education and health as lead agencies.
16 Statements like that might have some implications or
17 create some real hardships on the parts of the states
18 in navigating the Part C waters, as you put it.

19 CHAIRMAN BRANSTAD: Commissioner Takemoto?

20 MS. TAKEMOTO: My back was to the audience
21 when I reported on the system task force
22 recommendations and I heard from numerous folks that

23

1 are much more knowledgeable and experienced with Part
2 C, confirmation. What they basically said was only
3 about somewhere between 11 and 13 states have Part C
4 in the Department of Education. The other two-thirds
5 are somewhere else. Because we did not have a full
6 blown look at this, in recognition that we do support
7 Part C, no one's against single services but as
8 opposed to the recommendations that I discussed at
9 the last task force meeting, what I'm suggesting is
10 that we do not say that the Department of Education
11 in the states would be the lead agency or the states
12 would just continue to have that flexibility and
13 choice.

14 CHAIRMAN BRANSTAD: Commissioner Chambers?

15 MR. CHAMBERS: I guess the notion of
16 seamless service is maybe you're going to tell me how
17 we're going to implement that? The first thing I
18 would do first is to say, there's got to be a person
19 in the same post administering the program, the two
20 programs, Part C and Part B.

21 MS. TAKEMOTO: We also didn't have an
22 opportunity to have a separate task force on the

23

1 transition from early childhood Part C, birth to two,
2 on the 619 three to five, but the recommendation is
3 being offered in recognition that those services
4 really do need to be seamless. There should not be
5 major disruptions or disjointed services or programs
6 between these. In effect, that is what the states
7 have been moving to create is a seamless system so
8 that children are assumed to move in between the
9 different programs that our states have set up.

10 CHAIRMAN BRANSTAD: Commissioner Chambers?

11 MR. CHAMBERS: In part, I want to make
12 sure I'm reflecting the concerns expressed by my
13 colleague, Doug Gill, on this issue, not having the
14 experience of being a state director. I'm just
15 trying to reflect, as best I can, his concerns in
16 this area. I certainly would agree that a seamless
17 system is something I think we could all support.
18 Having studied Part C in a few states, and tried to
19 collect data about the programs, it is extremely
20 difficult to sort out. One of the big issues is
21 coordination among the various service agencies. I
22 guess I just want to be sensitive to what we might be

23

1 implying for the states, that we might have to go
2 through in getting adjustments, that's all. Thank
3 you.

4 CHAIRMAN BRANSTAD: Further discussion?

5 MR. PASTERNAK: Mr. Chairman?

6 CHAIRMAN BRANSTAD: Yes, Commissioner
7 Pasternack?

8 MR. PASTERNAK: The knowledge base on
9 early childhood is exploding exponentially. There
10 are several people who've expressed to me some
11 significant concerns about permanently authorizing
12 Part C, especially given the context of the upcoming
13 authorization of IDEA and the fact that some people
14 are advocating that we take the different parts of C
15 and 619 and integrate them into B and have B be birth
16 through 21 in the interest of simplifying some of the
17 overly complex laws and regulations governing special
18 education. So I would simply point that out to the
19 Commission. It may want to consider that in reacting
20 to the proposal from Commissioner Takemoto. I would
21 not be in support of permanently authorizing Part C.

22 MR. BARTLETT: Mr. Chairman?

23

1 CHAIRMAN BRANSTAD: Commissioner Bartlett.

2 MR. BARTLETT: Conceptually I agree with
3 that. I suppose I could be dissuaded, but by and
4 large we've decided for the entire IDEA we should ask
5 for a ten-year authorization. Permanent
6 authorizations have the downside if you don't get
7 improvements as you go along, if you don't make
8 changes so intuitively we should avoid a permanent
9 authorization of Part C or anything else.

10 MR. PASTERNAK: Thank you. I will speak
11 in opposition to the ten-year reauthorization
12 proposal when I get that opportunity.

13 MR. BARTLETT: Permanent is a lot longer
14 than ten years. I'm trying to understand
15 Commissioner Takemoto how your recommendation would
16 differ in terms of results from what base text is
17 because I see the words. I'm not sure how I
18 understand how the results have changed.

19 MS. TAKEMOTO: The intent of this is to
20 recognize the early intervention program and the
21 program worthy of a specific recommendation. If we
22 take out the "permanently authorized" phrase as Dr.

23

1 Pasternack has suggested, I don't know, I no longer
2 know what we're supporting, and I agree. You speak
3 about the confusion of what it is that we're doing
4 here.

5 CHAIRMAN BRANSTAD: Is there further
6 discussion?

7 (No response.)

8 CHAIRMAN BRANSTAD: If not, Commissioner
9 Takemoto has the amendment. Do you want to have
10 final remarks on that?

11 MS. TAKEMOTO: I'm open to other language
12 because it's not necessarily Part C in and of itself.
13 And again, Dr. Hassel, I'm wondering if we can defer
14 this recommendation.

15 CHAIRMAN BRANSTAD: He's got his light on.
16 Maybe he's got it.

17 (Laughter.)

18 CHAIRMAN BRANSTAD: Dr. Hassel?

19 (No response.)

20 CHAIRMAN BRANSTAD: Dr. Coulter?

21 MR. COULTER: Mr. Chairman, I would submit
22 that we have this recommendation on page 26 that

23

1 there is some language. I think Commissioner
2 Takemoto's purpose was to try and make the
3 recommendation more prominent in this section. I
4 would submit that probably given the controversies
5 associated with it that where it is on page 26 is
6 probably just fine.

7 CHAIRMAN BRANSTAD: Does anybody have a
8 comment on that? Commissioner Takemoto, is that
9 acceptable or do you feel it needs to be here?

10 MS. TAKEMOTO: Can we defer discussion of
11 this until we get to page 26?

12 CHAIRMAN BRANSTAD: Yes we can if that's
13 the consensus of the Commission.

14 MR. BARTLETT: Mr. Chairman, if
15 Commissioner Takemoto would like to withdraw without
16 prejudice to refile later.

17 CHAIRMAN BRANSTAD: Okay, with
18 Commissioner Takemoto's approval of that the
19 amendment is withdrawn at this time without
20 prejudice.

21 Back to Berdine 3. Dr. Berdine might also
22 wish to withdraw, without prejudice.

23

1 MR. BARTLETT: I be he would.

2 CHAIRMAN BRANSTAD: Hearing no objection,
3 so ordered. And we go to Fletcher 1. This is
4 Fletcher 1 for the regulatory and monitoring
5 amendments. Page 12, lines 20 and 21.

6 MR. COULTER: Mr. Chair, I think it really
7 relates to line 19. The question is giving a number
8 of states, it's actually 19 through 21. I think this
9 is Commissioner Bartlett's primary recommendation.

10 MR. BARTLETT: Mr. Chairman, if it's the
11 recommendation, I see that Dr. Fletcher doesn't agree
12 but I found it to work quite well to establish a
13 number which states a goal and creates a certain
14 scarcity but ten is a large enough number so there
15 are enough states that everybody can agree that who
16 comes up with a good plan can get one. The ones who
17 come up with a bad plan can then review the good
18 plans so ten is kind of a good government number that
19 we like to use in government. It's worked in other
20 systems. I would recommend we stay with it. If we
21 leave it vague, you could end up with two or thirty.

22 CHAIRMAN BRANSTAD: Commissioner Coulter?

23

1 MR. COULTER: I would submit that I don't
2 think Dr. Fletcher intended us to apply science to
3 this political issue. I really want to speak in
4 support of the ten. I'd be delighted if we got 12 to
5 14. Let's see what happens here. I would defer to
6 Mr. Bartlett's political experience; we're not
7 talking about science.

8 CHAIRMAN BRANSTAD: Does anybody want to
9 move the Fletcher amendment?

10 (No response.)

11 CHAIRMAN BRANSTAD: If not, we will just
12 move on. Pasternack 2. This is technical, right?

13 MR. PASTERNAK: This is substantive. The
14 amendment is to make a few changes here, first on
15 page 12, to replace lines 23 to 27 with the
16 following: The first one is to delete page 12, that
17 IDEA be reauthorized for ten years. On page 12, line
18 29, again the rationale is that our knowledge is
19 exploding at such a rate that we run the risk of not
20 being able to incorporate the best of science into
21 the best of policy into the best of law. So it's
22 just simply attempt to ask the Commission. I'm about

23

1 to go through the reauthorization process and from
2 what I hear from my colleagues, maybe it's better to
3 have it reauthorized for life, but on the other hand,
4 we run the risk of not being able to integrate things
5 that change, and evidence from science to informed
6 policy. That's what I am making the recommendation
7 that I am on that.

8 CHAIRMAN BRANSTAD: Reid Lyon?

9 MR. LYON: I would support that amendment
10 or that deletion if in fact authorizing for ten years
11 makes the provision of services impermeable to the
12 information that will be forthcoming in the next two
13 years, three years or four years. If in fact that's
14 the case, we set ourselves and the kids up for long-
15 term harm when in fact we have the possibility of
16 much better outcomes.

17 CHAIRMAN BRANSTAD: Nancy Grasmick?

18 MS. GRASMICK: I'm very sensitive to what
19 Commissioner Pasternack is saying. The problem at
20 the implementation level is that by the time people
21 are oriented to the new law, it's practically time to
22 change it. And there's a real implementation process

23

1 that needs to take place, and it takes a period of
2 time. So I don't know if there's another mechanism
3 for adjustment but there's a real problem on a large
4 scale of getting people oriented to a new law,
5 beginning to implement it, looking at results.

6 CHAIRMAN BRANSTAD: Reid Lyon?

7 MR. LYON: I certainly understand
8 Commissioner Grasmick's concern. At the same time,
9 I'm not sure that we're actually applying what we
10 know about better implementation as we speak
11 primarily because we give such large windows to
12 implement within. I don't know if this is the time
13 to talk about using a shorter time frame as leverage
14 or a mechanism to use what we know to implement
15 better. I clearly understand the implementation
16 issues but frankly we reinforce a lack of
17 implementation sometimes by protracted periods of
18 time.

19 CHAIRMAN BRANSTAD: Commissioner Coulter?

20 MR. COULTER: I just want to reinforce
21 what Commissioner Grasmick is saying. I think we
22 heard testimony to the effect that the law is passed.

23

1 It took two years to get regulations out, and then it
2 took states time to change their laws to conform to
3 the law of the regulations. I think this
4 recommendation was trying to respond to that long-
5 time line that it takes for states and local entities
6 to begin to implement a law. Then they're thrust
7 back into the reauthorization process. If I
8 understood this, Commissioner Bartlett, I think that
9 was the rationale behind this recommendation. I just
10 wanted to be clear about what the rationale was.

11 CHAIRMAN BRANSTAD: Commissioner Takemoto?

12 MS. TAKEMOTO: This recommendation and our
13 task force discussion was to also be consistent with
14 No Child Left Behind, which is a ten-year window at
15 the implementation level. Isn't it ten years?

16 MR. HASSEL: Not for reauthorization.
17 It's a 12-year time line for getting results.

18 MS. TAKEMOTO: Thank you for clarifying
19 that for me. My problem at the local level is the
20 same problem or the same change issues that we have
21 as administrations change, which is that we have
22 bureaucrats sitting at the federal, state and local

23

1 level who think that they can just wait for it to
2 change again instead of implementing what is there.
3 In Virginia, it took the feds two years, it took us
4 another two years, and the localities have not all
5 submitted their implementing recommendations. Now
6 we're turning around and doing it again, so they're
7 saying, we'll just wait until they fix all the things
8 that were wrong last time, and we won't implement it.
9 If people can figure out how we can address this lack
10 of implementation because they think they can wait
11 until the next time around, I would be in support of
12 not having to wait. We've been waiting for five
13 years in too many places already. And now we're
14 turning around, and they're just sitting around
15 waiting for it to change again. So I think we want
16 compliance, we want people to actually implement
17 what's actually in IDEA, so if there's some way that
18 we can figure out how to make that happen, I'm fully
19 supportive.

20 CHAIRMAN BRANSTAD: Commissioner Hunt?

21 MR. HUNTT: Thank you, Mr. Chairman. I
22 really liked what the Under Secretary said at our

23

1 last meeting. We're not talking about no school left
2 behind but No Child Left Behind, whatever it takes to
3 ensure the kids are getting the best education
4 possible I think is what should drive this particular
5 recommendation.

6 CHAIRMAN BRANSTAD: Commissioner Hassel?

7 MR. HASSEL: Perhaps we could recommend
8 speedy issuance of regulations on the new law by the
9 Department of Education and ambitious timelines for
10 states. Under No Child Left Behind, states are
11 already having to act this year. Nobody's waiting
12 two or three years to start implementing No Child
13 Left Behind, because that's the way Congress wrote
14 the law, so perhaps the recommendation could be
15 speedy implementation. The Department of Education
16 should implement regulations on the new IDEA very
17 quickly. I don't know what the time frame would be
18 if you want to put one, and that Congress should also
19 establish ambitious timelines for states to begin
20 implementing their responsibilities.

21 CHAIRMAN BRANSTAD: Commissioner Takemoto?

22 MS. TAKEMOTO: Could we put the same kind
23

1 of ambitious timelines that are apparently in No
2 Child Left Behind? Just look at that as a blueprint
3 for how we do this, and find language tomorrow which
4 would be consistent with that implementation.
5 Unless, Ed, do you know what the time frames are for
6 that because -- are there federal regulations?

7 MS. GRASMICK: There are some and there
8 are others still underway. So we are moving ahead
9 with a lot of complications required but we're doing
10 it. I want to be clear that I support Commissioner
11 Pasternack and Commissioner Lyon in the integration
12 of new information. I do think we can have a time
13 line which doesn't necessarily work and that
14 integration of what we hope will become part of the
15 implementation doesn't happen. I think if the
16 regulations can be done more rapidly and if we can
17 have a specific time line, it would be very helpful.

18 MR. BARTLETT: Mr. Chairman?

19 CHAIRMAN BRANSTAD: Commissioner Bartlett.

20 MR. BARTLETT: Perhaps the way to solve
21 it, I think Secretary Pasternack is right.
22 Fundamentally, if you have a ten-year authorization

23

1 in such a rapidly changing and developing field, I
2 think you end up losing a lot. At the same time,
3 schools, which appropriately feel put upon with ever-
4 changing regulations, this sometimes discourages
5 them. Perhaps we should turn the section on its head
6 and look at the real problem which is the lack, at
7 least in the '97 amendments, the lack of the
8 expedited implementation. That was the problem. The
9 problem wasn't that it was a five-year authorization.
10 It was that nobody started until year four-and-a-half
11 some would say. I wouldn't say that, but some would
12 say. So perhaps the right approach would be on line
13 29 would be simply to remove the words "reauthorize
14 in ten years" and Congress will reauthorize for
15 whatever length they choose to. But then to start
16 with the words IDEA should provide for, leave the
17 rest of it and say something like for. We didn't, by
18 the way, throw inconsistent with the No Child Left
19 Behind since we're doing that a lot, consistent with
20 No Child Left Behind, the IDEA should provide for an
21 expedited implementation at the federal, state and
22 local level of the newly authorized IDEA, achieving
23

1 positive changes at the classroom level within the
2 first 12 months. After enactment, our goal is to get
3 changes at the classroom level, and if we say that we
4 want to see some changes within 12 months, and the
5 speedy implementation occurs at the federal, the
6 state, and the local level, that should achieve the
7 goal.

8 CHAIRMAN BRANSTAD: So you're offering
9 this as a substitute?

10 MR. BARTLETT: As a substitute for this
11 recommendation.

12 CHAIRMAN BRANSTAD: Is there a second to
13 that?

14 MR. LYON: Second.

15 CHAIRMAN BRANSTAD: We've got several
16 seconds. We've got a motion and a second. Do you
17 want to read that again?

18 MR. BARTLETT: I was hoping not to delete
19 the term "reauthorized in ten years" delete that all
20 together and state that "consistent with No Child
21 Left Behind, IDEA should provide for an expedited
22 implementation at the federal, state, and LEA level

23

1 of the newly authorized IDEA, seeking to achieve
2 positive changes in the classroom within 12 months of
3 enactment."

4 CHAIRMAN BRANSTAD: Commissioner Grasmick?

5 MS. GRASMICK: I liked everything except
6 the 12 months. I'm not sure, I liked the expediting,
7 etc. I think the time line should be left up to the
8 reauthorization process, just as it was in No Child
9 Left Behind, and there are a variety of different
10 time lines, so I'm not comfortable with the 12
11 months.

12 CHAIRMAN BRANSTAD: Commissioner Takemoto?

13 MS. TAKEMOTO: These recommendations have
14 been all caps for what we're talking about here and I
15 think what we're talking about here is expedited
16 results from expedited implementation.

17 MR. BARTLETT: I accept that as a friendly
18 amendment. Mr. Chairman, I might say in response to
19 Commissioner Grasmick's thoughts, and I respect them
20 a great deal, I'm deliberately not saying here that
21 everything has to be implemented or most things have
22 to be implemented in 12 months because it's not

23

1 realistic. I do think as a Commission, though, this
2 is a way of saying we're pretty darned disappointed
3 with 1997, with the results of 1997 reauthorization.
4 We were pretty darned disappointed. Those results,
5 in many cases, didn't get relayed to the classroom.
6 Whoever's fault it is we are disappointed. What
7 we're saying is, as a Commission, we're doing all
8 this work, and then Congress has been doing a lot of
9 work and we'd like for parents and students to see
10 something happen in 12 months. I'm not saying how
11 much needs to happen, but just something.

12 MS. GRASMICK: I concur with that
13 impatience that you're feeling. However, I would say
14 that through the reauthorization process, there ought
15 to be set up a schedule of dates and they ought to be
16 tailored to whatever the requirement is. Just as we
17 did in No Child Left Behind, there are some things
18 that are absolutely immediate, and some things that
19 are in two years' time, out years. So there's a
20 schedule. It is very specific with no waivers.

21

22

1 MR. BARTLETT: I accept that, Mr.
2 Chairman, as an add, while keeping that we've got to
3 see something in 12 months, something like the
4 reauthorization shall establish a timetable of
5 expected implementation for various sections of the
6 reauthorization.

7 So what you're saying is some would be 12
8 months, some would be six months, perhaps. Some
9 would be 18 months. I agree with that. But I would
10 hold the same that something has to happen in 12
11 months, even if it's not everything.

12 CHAIRMAN BRANSTAD: Commissioner Lyon.

13 MR. LYON: I do think those dovetail well.
14 I think Commissioner Bartlett is not telling us
15 explicitly or the language isn't telling us
16 explicitly how much has to be achieved. It certainly
17 sends a message that we want to see results in the
18 classroom within a reasonable period of time. That
19 could be left up to individual districts I suppose.
20 No?

21 MS. GRASMICK: I think the schedule ought
22 to be part of the law, just as No Child Left Behind.

23

1 There is a specific schedule that is part of the law,
2 and there is an analysis of what is reasonable to do
3 first, second and third. I don't think we should
4 prejudge that.

5 MR. LYON: I would just add that whatever
6 schedule is in place within this fairly constrained
7 period, we ought to write it in law that if the
8 states do not achieve it, Secretary Pasternack is
9 banished to Iowa.

10 (Laughter.)

11 CHAIRMAN BRANSTAD: That sounds like a
12 reward, not a punishment to me.

13 (Laughter.)

14 CHAIRMAN BRANSTAD: Where are we at this
15 point? I think Commissioner Bartlett has an
16 amendment which he has rewritten with added
17 additional language to meet Commissioner Grasmick's
18 concerns. Do you want to re-read that? Are we ready
19 to vote on that?

20 MR. PASTERNAK: Mr. Chairman, I just want
21 to say that Commissioner Bartlett is exactly right.
22 I was not there. I think it's unconscionable that it

23

1 took two years to get the regulations out to
2 implement the law, and I think that's the real issue
3 that we're facing.

4 As a bureaucrat, as somebody who is
5 responsible for implementing at the state level, it
6 was really tough to do that absent regulations, and
7 the states floundered for a great deal of time to
8 figure out what congressional intent was. For you
9 all to say that we want to try to get it done as
10 quickly as possible is fine because what this is all
11 about is excellence in results for kids with
12 disabilities, which we don't have, despite the fact
13 that we've made significant progress.

14 I told you before that Commissioner Sontag
15 will tell you that the graduation rate for kids with
16 disabilities has climbed to a historic high in the
17 history of this country, but still more than 40
18 percent of kids with disabilities in this country do
19 not graduate from high school with a standard
20 diploma, and that's unconscionable. We are leaving
21 too many kids behind.

22 I think the intent of Commissioner
23

1 Bartlett's language is important. Once we get the
2 law reauthorized, let's get the regulations behind it
3 as quickly as possible, apropos of what Commissioner
4 Grasmick said.

5 CHAIRMAN BRANSTAD: Do you want to restate
6 that, Mr. Bartlett, and we'll vote on it?

7 MR. BARTLETT: Mr. Chair, this will be a
8 substitute for the current recommendation. My
9 accommodation to Secretary Pasternack, by the way, I
10 think that the task force identified a problem, but
11 misidentified the problem. The problem was not
12 whether it's five or ten years, the problem was
13 whether the change was getting made in the classroom.
14 You helped us to understand that.

15 So the substitute is entitled: "Expedited
16 implementation consistent with No Child Left Behind
17 IDEA should provide for expedited implementation of
18 new authorization achieving positive changes in the
19 classroom within 12 months. Further, the
20 reauthorization shall establish a timetable for each
21 section of reauthorization.

22 MR. HUNTT: Second.

23

1 CHAIRMAN BRANSTAD: We've got a motion and
2 a second to approve. This is a substitute for
3 Pasternack Number 2. All in favor, unless there's
4 further discussion, all in favor of that motion,
5 signify by saying aye.

6 (Chorus of ayes.)

7 CHAIRMAN BRANSTAD: Opposed?

8 (No response.)

9 CHAIRMAN BRANSTAD: It is approved. You
10 would then withdrawn Number 2 and go to Pasternack
11 Number 3. I recognize Dr. Pasternack.

12 MR. PASTERNAK: Thank you, Mr. Chairman.
13 This gets to some information Dr. Sontag asked for
14 originally and brought our attention to the fact that
15 we need to utilize the federal OSEP staff more
16 effectively. That's the test for utilizing a new
17 recommendation. If OSEP has not been able to meet
18 its obligation and appropriately implement its
19 responsibility under federal law within three months
20 of the issuance of this report, the Secretary of
21 Education will report to Congress recommendations on
22 how OSEP can better use its staff and recommendations

23

1 to implement federal special education law.

2 I'll just break that in two, because I'm
3 asking for two separate changes. We can do them
4 seriatim.

5 CHAIRMAN BRANSTAD: You're going to move
6 that. Is there a second for that?

7 MR. COULTER: Second.

8 CHAIRMAN BRANSTAD: Discussion?

9 (No response.)

10 CHAIRMAN BRANSTAD: All in favor of that
11 motion, signify by saying aye.

12 (Chorus of ayes.)

13 CHAIRMAN BRANSTAD: Opposed?

14 (No response.)

15 CHAIRMAN BRANSTAD: It is approved. Do
16 you want to go to the second part? We're on a roll
17 here. Keep at it.

18 MR. PASTERNAK: Moving all the way to
19 page 19, I know we'll come back to the other pages in
20 between. I don't know. Is that acceptable?

21 CHAIRMAN BRANSTAD: Let's go ahead and do
22 it if it's related.

23

1 MR. PASTERNAK: All right. Page 19,
2 replace lines 4 to 17 with the following:

3 The Commission believes that
4 implementation of important federal law requires a
5 commitment to an appropriately trained and well
6 utilized staff. The Commission finds that the Office
7 of Special Ed and Rehabilitative Services, OSEP in
8 particular, has not been able to meet its obligations
9 and appropriately implement its responsibility under
10 federal law.

11 Families and states will not receive the
12 promise of special education without a strong federal
13 office to assist states, reinforce flexibility and
14 innovation and collect important data about results
15 and enforce compliance for results.

16 The Commission recommends that within
17 three months of the issuance of this report, the
18 Secretary of Education report to Congress
19 recommendations for how OSEP can better utilize its
20 staff and resources to implement federal special
21 education law.

22 Mr. Chairman, members of the Commission,
23

1 this is just narrative to support the recommendation
2 that you all have just unanimously approved about 30
3 seconds ago.

4 CHAIRMAN BRANSTAD: Is there a second?

5 MR. LYON: Second.

6 CHAIRMAN BRANSTAD: A second from Reid
7 Lyon. I recognize Dr. Coulter.

8 MR. COULTER: I just want to speak in
9 favor of this. It's better worded and gives a little
10 bit more flexibility, and since I wrote it in the
11 first place, I like Dr. Pasternack's wording in
12 preference to mine.

13 CHAIRMAN BRANSTAD: Commissioner Takemoto?

14 MS. TAKEMOTO: Just a proposed friendly
15 amendment. You say "Families and states will not
16 receive the promise of special education". I think
17 it should say "Students with disabilities will not
18 receive the promise" because special education should
19 be promising those results for the students more than
20 their families or the state.

21 CHAIRMAN BRANSTAD: Do you accept that as
22 a friendly amendment?

23

1 MR. PASTERNAK: Certainly, Mr. Chairman.

2 CHAIRMAN BRANSTAD: That's accepted as a
3 friendly amendment. We'll take a vote on it. Is
4 there a second to that motion?

5 MS. GRASMICK: Second.

6 CHAIRMAN BRANSTAD: Seconded by
7 Commissioner Grasmick. Discussion?

8 (No response.)

9 CHAIRMAN BRANSTAD: All in favor of the
10 Takemoto amendment to the Pasternack amendment
11 signify by saying aye.

12 (Chorus of ayes.)

13 CHAIRMAN BRANSTAD: Opposed?

14 (No response.)

15 CHAIRMAN BRANSTAD: It is approved. We're
16 now on the Pasternack amendment as amended. Any
17 final remarks?

18 (No response.)

19 CHAIRMAN BRANSTAD: All in favor of that
20 amendment as amended, signify by saying aye.

21 (Chorus of ayes.)

22 CHAIRMAN BRANSTAD: Opposed?

23

1 (No response.)

2 CHAIRMAN BRANSTAD: It is approved.

3 Berdine Number 4. We have Fletcher 3 through 6
4 first. Fletcher 3 through 6. That's page 16, lines
5 2 through 7. How do you want to handle this?

6 MS. TAKEMOTO: I would like to --

7 CHAIRMAN BRANSTAD: Commissioner Takemoto.

8 MS. TAKEMOTO: Again, in the interest of
9 space, not that anything in here is not true or
10 appropriate or any of that, but in the interest of
11 space, I would suggest, I would ask our chair if he
12 would accept the shortening of the section per Dr.
13 Fletcher's recommendations and would just tighten up
14 the language here.

15 CHAIRMAN BRANSTAD: You're asking that
16 question to Dr. Coulter?

17 MR. COULTER: I think -- you're making a
18 motion?

19 MS. TAKEMOTO: Yes.

20 MR. COULTER: The motion is to accept
21 Fletcher Number 3, which is to delete lines 2 through
22 7. Is that your motion?

23

1 MS. TAKEMOTO: I'm moving that we accept
2 his amendments 3 through 6. That would tighten the
3 language, tighten the writing of this.

4 MR. COULTER: Once again, would you accept
5 just dealing with items 3, 4 and 5 for now?

6 MS. TAKEMOTO: Sure.

7 MR. COULTER: I'd be happy to second that.

8 CHAIRMAN BRANSTAD: We have a motion to
9 accept Fletcher's 3, 4 and 5. I recognize Todd Jones
10 for comment.

11 MR. JONES: Let me make a comment about
12 Number 5, which relates to the box. The boxes are
13 pull-out quotes that will roughly correspond to where
14 they are in this text, but that doesn't mean that
15 they go exactly there. This will be much like any
16 other pull-out box. It can be moved closer to the
17 beginning, but that will depend upon layout as much
18 as anything.

19 MR. HUNTT: Why would the box be footnoted
20 and put in the appendix for something like that?

21 MR. COULTER: Because I worked on this
22 section extensively, I think what we're trying to do

23

1 here is to simply call attention to a selection of
2 testimony, and it adds emphasis. So I would trust
3 the executive director to put this in a place in the
4 report where it does what it's purpose is, which is
5 to call attention to the remarks of a witness. I
6 would not want it as a footnote.

7 CHAIRMAN BRANSTAD: Reid Lyon?

8 MR. LYON: I would second Commissioner
9 Coulter's recommendation. I think these do provide
10 very clear, compelling kinds of support for the
11 Commission's recommendation.

12 CHAIRMAN BRANSTAD: If there's no further
13 discussion, we'll proceed to a vote. We're basically
14 working off of Fletcher amendments 3, 4 and 5. It's
15 been moved by Commissioner Takemoto, seconded by
16 Commissioner Coulter. All in favor of that motion,
17 signify by saying aye.

18 (Chorus of ayes.)

19 CHAIRMAN BRANSTAD: Opposed, identify by
20 saying nay.

21 (No response.)

22 CHAIRMAN BRANSTAD: The ayes have it.

23

1 That is approved. We have Number 6, Fletcher Number
2 6. Commissioner Takemoto, are you going to handle
3 that one, too, or Commissioner Coulter?

4 MR. COULTER: This remark has been made
5 several times. I just need clarification. Mr.
6 Chair, are we having a space problem in terms of the
7 number of pages? Are we in need here to delete text?

8 CHAIRMAN BRANSTAD: I think whatever we
9 can try to delete, yes. I think we're over the
10 amount that we indicated that we were supposed to try
11 to live within.

12 MR. JONES: The answer to that is yes as
13 to text, no as to charts and graphs. We have hosts
14 of charts and graphs.

15 CHAIRMAN BRANSTAD: Charts, graphs and
16 tables. It includes tables, so we have space for
17 tables, but we need to be more judicious about text.

18 MR. JONES: That's right. Tables will be
19 much smaller. Tables, charts and so on are much
20 smaller, and they'll take up the space you see here.
21 This table takes nearly half a page. It will be
22 equal to two lines at best.

23

1 MR. COULTER: Thank you.

2 MS. TAKEMOTO: I think I began this
3 amendment. I would withdraw it. I was mostly
4 concerned with your charge for space, and I don't
5 mind the information here. I just don't want us to
6 run over pages.

7 CHAIRMAN BRANSTAD: Without objection,
8 that amendment is withdrawn. That's Fletcher Number
9 6. Now we go to Fletcher 8.

10 MR. HUNTT: I'm sorry. I'm having a hard
11 time putting my mind around this. Are you saying
12 that this table is only going to take two lines of
13 space?

14 MR. JONES: What I was saying is that it
15 would take the equivalent of, because it goes into a
16 corner, and its formatting font is much smaller. As
17 the layout goes, and I know you all haven't seen it,
18 but we will have pull-out areas where the full
19 quotes, for example, are placed. The amount of space
20 a chart this small needs when better formatted than
21 we're formatting -- that our incompetent ability to
22 format it in Word format will do, makes it much, much
23

1 smaller.

2 MR. HUNTT: Thank you.

3 CHAIRMAN BRANSTAD: Where does it go, in
4 the margin or something? It's essentially going in
5 margins, corners and stuff like that. So it's not
6 just taking up text space. You can understand that.

7 Okay. What have we got next? Fletcher 8.
8 Is somebody going to handle that one? I'll recognize
9 Commissioner Hassel for Fletcher 8.

10 MR. HASSEL: We added Bob's recommended
11 statement, utilize federal OCR staff more
12 effectively. Really that is a sub-heading to go over
13 this part of the report.

14 CHAIRMAN BRANSTAD: Is there a second?

15 MR. HUNTT: Second.

16 CHAIRMAN BRANSTAD: Discussion?

17 (No response.)

18 CHAIRMAN BRANSTAD: All in favor, signify
19 by saying aye.

20 (Chorus of ayes.)

21 CHAIRMAN BRANSTAD: This is a heading.

22 Would you restate it, Mr. Hassel?

23

1 MR. HASSEL: On page 19, before we get
2 into discussion of OCR staff, line 3, a heading,
3 Utilize Federal OCR Staff More Effectively. The same
4 text as in Bob Pasternack's new recommendation.

5 CHAIRMAN BRANSTAD: Consistent with that
6 new recommendation, that's already been approved.
7 I'll come back to the vote again. All in favor of
8 that motion, signify by saying aye.

9 (Chorus of ayes.)

10 CHAIRMAN BRANSTAD: Opposed?

11 (No response.)

12 CHAIRMAN BRANSTAD: It is approved.

13 Fletcher 10, page 20, 25 through 29. It's a delete.

14 MR. LYON: Mr. Chairman, I concur with
15 that recommendation.

16 MR. HASSEL: Second.

17 CHAIRMAN BRANSTAD: Commissioner Hassel
18 seconds. Discussion?

19 (No response.)

20 CHAIRMAN BRANSTAD: All in favor of the
21 motion to delete that, signify by saying aye.

22 (Chorus of ayes.)

23

1 CHAIRMAN BRANSTAD: Opposed?

2 (No response.)

3 CHAIRMAN BRANSTAD: It is approved. It's
4 deleted. Fletcher Recommendation Number 12.

5 MR. LYON: Mr. Chairman, I move that we
6 put Iowa in place of Texas.

7 (Laughter.)

8 CHAIRMAN BRANSTAD: Is there a second to
9 that motion?

10 MR. LYON: I retract that.

11 (Laughter.)

12 MR. COULTER: It fails.

13 (Laughter.)

14 CHAIRMAN BRANSTAD: Commissioner Hassel
15 has just informed me that he has withdrawn Number 8,
16 so that amendment is withdrawn. What have we got,
17 Fletcher 13? The next one is Fletcher 13.

18 MS. BRYAN: What happened on Number 8 -- I
19 mean Number 12?

20 CHAIRMAN BRANSTAD: Fletcher 12. Okay.
21 Hassel withdrew Number 8.

22 MR. HASSEL: Have we not voted on Fletcher
23

1 12? Is that the problem?

2 CHAIRMAN BRANSTAD: Fletcher 12 we didn't
3 vote on. That's the one that had Texas in it.
4 Somebody said Iowa and I thought it was just a joke.

5 MS. BRYAN: I'm bringing it up in a
6 different context, but I think it's a better idea to
7 just simply saying, during a visit to the school.
8 Because it's a pejorative comment to some extent, I
9 think we ought to just simply say, we visited a
10 school.

11 CHAIRMAN BRANSTAD: So you are back to
12 moving that amendment? And there's a second from
13 Commissioner Butterfield. Discussion?

14 (No response.)

15 CHAIRMAN BRANSTAD: All in favor, signify
16 by saying aye.

17 (Chorus of ayes.)

18 CHAIRMAN BRANSTAD: Opposed?

19 (No response.)

20 CHAIRMAN BRANSTAD: We took Texas out. We
21 took Ronald Reagan and Texas out of the report,
22 folks. We may have -- Fletcher Number 13. Who's

23

1 going to handle that one? This is also a delete,
2 right? What's your pleasure on that? Page 23. I
3 recognize Commissioner Hassel.

4 MR. HASSEL: I concur. This is what we
5 discussed under accountability. The second sentence
6 is about failure to meet results being the basis for
7 individual remedies under the law. This is a
8 different idea which we haven't discussed.

9 CHAIRMAN BRANSTAD: So you move to delete?
10 What portion of it are you moving to delete?

11 MR. HASSEL: I'm just pointing out that
12 there's two very different statements here and we
13 might want to take them separately.

14 CHAIRMAN BRANSTAD: We have a motion to
15 separate them?

16 MR. HASSEL: Yes. And I move to delete
17 the first one.

18 MS. BUTTERFIELD: I second.

19 CHAIRMAN BRANSTAD: We have a motion by
20 Commissioner Hassel seconded by Commissioner
21 Butterfield to separate the two and the first part of
22 it is actually being deleted.

23

1 MR. HUNTT: The sentence IDEA should
2 require truly measurable.

3 CHAIRMAN BRANSTAD: So that first sentence
4 that goes from "IDEA should measure" through "No
5 Child Left Behind". That whole sentence goes,
6 correct?

7 MR. HASSEL: That's the motion.

8 CHAIRMAN BRANSTAD: Is there a second to
9 that motion? There is a second from Commissioner
10 Butterfield. Discussion on the motion to delete that
11 language?

12 (No response.)

13 CHAIRMAN BRANSTAD: All in favor of that
14 motion, signify by saying aye.

15 (Chorus of ayes.)

16 CHAIRMAN BRANSTAD: Opposed?

17 (No response.)

18 CHAIRMAN BRANSTAD: It is approved.

19 MR. JONES: The next is Fletcher 14 and
20 Berdine 2. I'm sorry?

21 CHAIRMAN BRANSTAD: Commissioner Coulter.

22 MR. COULTER: I have note to myself, on
23

1 page 23, line 7, I just want a clarification from Mr.
2 Jones. We attempted to make in a number of instances
3 a shift from use of the word "outcomes" to "results",
4 where we had as you see on line 4, outcomes/results.
5 I just want to make note of the fact that I think
6 whenever possible we wanted to either use the word
7 "results" or "outcome/results", not "outcomes" alone.

8 I know that's a technical term. I just
9 want to make certain that we're consistent.

10 CHAIRMAN BRANSTAD: I agree. It's really
11 kind of a technical amendment. Commissioner Huntt,
12 are you seeking recognition? You've got your
13 microphone on.

14 MR. HUNTT: No. I'm sorry.

15 MR. JONES: Fletcher 14 and Berdine 4 at
16 the same time.

17 CHAIRMAN BRANSTAD: I recognize
18 Commissioner Coulter.

19 MR. COULTER: I just want to move that we
20 -- actually I think what we want to do is, I want to
21 move that we adopt Commissioner Berdine's language on
22 his Number 4 where he says change the term. If I

23

1 understand this correctly on line 8, to delete the
2 word "arbitrary".

3 CHAIRMAN BRANSTAD: Is there a second to
4 that motion, just delete the word "arbitrary"?

5 MR. HUNTT: Second.

6 CHAIRMAN BRANSTAD: A second from
7 Commissioner Hunt. Discussion on that motion?

8 (No response.)

9 CHAIRMAN BRANSTAD: All in favor of that
10 motion, signify by saying aye.

11 (Chorus of ayes.)

12 CHAIRMAN BRANSTAD: Opposed?

13 (No response.)

14 CHAIRMAN BRANSTAD: It is approved.

15 (Pause.)

16 MR. CHAMBERS: I need some clarification
17 on the third sentence in that paragraph. a It seems
18 like there's something missing. It's on line 11,
19 page 23. That was the child's IEP team should agree
20 -- there's something missing.

21 MR. JONES: I believe that should be
22 "arbitrarily". Again, to be consistent, you would

23

1 then drop that phrase, that word in line 12 as well.

2 MR. CHAMBERS: I would make the motion
3 that we simply delete that clause. We can take that
4 out as a technical edit.

5 CHAIRMAN BRANSTAD: So you did exactly the
6 same thing in your technical edit?

7 MR. PASTERNAK: Pretty much. It's on
8 page 1132 that we passed out for your perusal, and if
9 you go then to page 23, line 12, it would read
10 "criteria for judging results, not arbitrary.
11 Established". I don't know if that gets you to the
12 point that you're making, Doctor Coulter.

13 CHAIRMAN BRANSTAD: It actually cuts it
14 off after "results", right?

15 MR. COULTER: We're simply recommending to
16 delete after the comma.

17 CHAIRMAN BRANSTAD: So you'd have a period
18 instead of a comma and delete the rest of it?

19 MR. PASTERNAK: If you want to do that.

20 CHAIRMAN BRANSTAD: Dr. Coulter moves
21 that.

22 MR. PASTERNAK: I'll second it.

23

1 CHAIRMAN BRANSTAD: Dr. Pasternack seconds
2 it. Discussion?

3 (No response.)

4 CHAIRMAN BRANSTAD: All in favor of that
5 motion, signify by saying aye.

6 (Chorus of ayes.)

7 CHAIRMAN BRANSTAD: Opposed?

8 (No response.)

9 CHAIRMAN BRANSTAD: It is approved. The
10 Takemoto amendment we deferred on, I believe, page
11 21, line 19. Commissioner Takemoto.

12 MS. TAKEMOTO: Yes. Thank you for waiting
13 on me on this one. One of the things -- I've had
14 some conversations about the interactions between
15 OSEP and OCR and how they could work together in more
16 powerful ways.

17 So this is an effort to be supportive
18 without identifying the -- not, you know, it's not my
19 job. I'm saying that we would, to ensure that states
20 and LEAs are supported in finding quick resolution
21 and effectively improving results.

22 CHAIRMAN BRANSTAD: That's a motion. Is
23

1 there a second?

2 MR. HASSEL: Second.

3 CHAIRMAN BRANSTAD: There's a second from
4 Commissioner Hassel. Any discussion?

5 (No response.)

6 CHAIRMAN BRANSTAD: All in favor of that
7 motion, signify by saying aye.

8 (Chorus of ayes.)

9 CHAIRMAN BRANSTAD: Opposed?

10 (No response.)

11 CHAIRMAN BRANSTAD: The ayes have it. The
12 motion is approved.

13 MR. HUNTT: Mr. Chairman, there should be
14 a period after "collaborative".

15 CHAIRMAN BRANSTAD: Period after
16 collaborative.

17 MS. TAKEMOTO: It's now after "results".

18 CHAIRMAN BRANSTAD: After "results" for
19 the one you just approved. The next amendment is?

20 MR. JONES: Fletcher 16.

21 CHAIRMAN BRANSTAD: Fletcher Number 16.

22 (Pause.)

23

1 MS. TAKEMOTO: Mr. Chair?

2 CHAIRMAN BRANSTAD: Commissioner Takemoto?

3 MS. TAKEMOTO: I have really been, it
4 should be noted that I am avid supporter of early
5 intervention, and in light of our previous discussion
6 and the uncertainty and lack of full support for
7 this, I think we would be doing more harm and add to
8 ambiguity to have any mention of Part C in here, and
9 perhaps added to the list of things that we didn't
10 really get to. I just think that Fletcher has a
11 number of amendments, and I don't know, but once we
12 take out permanently authorized, which I think that
13 we have pretty much agreed to do, I don't know how
14 this discussion will help anyone know what we
15 intended.

16 I've also had some amendments having to do
17 with the backing of research results, as Dr. Fletcher
18 did in his amendments, and I'm just thinking in the
19 interests of time and not full attention to this
20 issue, that we just say we didn't deal with it.

21 CHAIRMAN BRANSTAD: Dr. Coulter?

22 MR. COULTER: I think we'd be

23

1 disrespecting the testimony we heard in the research
2 section and in Nashville. I'm not certain what the
3 motion is on the floor. I think we're trying to deal
4 with item Number 16 of Fletcher. Is anybody taking
5 that? I didn't hear that.

6 CHAIRMAN BRANSTAD: There hasn't been a
7 motion made yet. Are you prepared to make a motion?

8 MR. COULTER: No.

9 CHAIRMAN BRANSTAD: We're at that point,
10 but nobody's made a motion at this point.
11 Commissioner Takemoto suggested maybe the whole area
12 be deleted I guess, but that motion hasn't been made
13 either. That's been a suggestion.

14 MR. PASTERNAK: Point of order, Mr.
15 Chair. I believe Dr. Fletcher's amendment speaks to
16 the fact that he'd like to see a heading inserted in
17 that section of the report.

18 CHAIRMAN BRANSTAD: Do you have a motion
19 on that?

20 MR. PASTERNAK: Why don't we just call it
21 Early Childhood Programs?

22 MR. COULTER: I'd second that.

23

1 CHAIRMAN BRANSTAD: We have a motion by
2 Dr. Pasternack seconded by Dr. Coulter to add a
3 heading, Early Childhood Programs. All those in
4 favor, unless there's any discussion, all those in
5 favor of adding that heading signify by saying aye.

6 (Chorus of ayes.)

7 CHAIRMAN BRANSTAD: Opposed?

8 (No response.)

9 COMMISSIONER TAKEMOTO: Abstain.

10 CHAIRMAN BRANSTAD: It is approved.

11 MR. PASTERNAK: Now we can get to it.

12 CHAIRMAN BRANSTAD: What have we got, 17?

13 MR. JONES: Yes.

14 MS. TAKEMOTO: That was my intent in
15 talking that we had deferred my early recommendation
16 as well as whose recommendation, I think Bill
17 Berdine's recommendation to delete it from the
18 existing grid of accepted recommendations. I just
19 don't think this section is developed well enough and
20 articulated well enough to feel comfortable
21 supporting the whole thing.

22 I would just withdraw my first

23

1 recommendation and just suggest if it's discussed in
2 another part of the section, then great. They looked
3 at this, and they actually studied it very well. I
4 just don't feel comfortable including discussion
5 about early intervention in this section of the
6 report and would move that that discussion is deleted
7 from the report.

8 CHAIRMAN BRANSTAD: Is there a second?
9 Dr. Reid Lyon?

10 MR. LYON: Just a point of discussion.
11 Commissioner Takemoto, are you referring to the
12 discussion on page 31?

13 MS. TAKEMOTO: Twenty-six.

14 MR. LYON: But the other testimony on
15 early intervention on page 31?

16 MS. TAKEMOTO: I am only referring, my
17 proposal is that we take out the discussion of Part C
18 in this section. I'm not making any motions about
19 discussion about this in other sections. I'm just
20 saying in this section, let's take it out. If it's
21 discussed in finance or personal development or
22 research, great.

1 CHAIRMAN BRANSTAD: Is there a second to
2 the motion?

3 MR. LYON: I'll second that, yes.

4 CHAIRMAN BRANSTAD: Dr. Coulter?

5 MR. COULTER: This particular section
6 speaks to accountability. I think what the
7 Commission has tried to do is to make some statements
8 about the problems that are inherent in the three
9 parts of the act, Part C, 619 and Part B. And I
10 think what we're trying to do here is to call
11 attention to the fact that the transition between C
12 and B, at least in terms of the testimony presented
13 to us, was a failure in many, many instances. That
14 Part C is not being adequately implement, that in
15 fact it's only been recently monitored.

16 And I think we are trying to call
17 attention to the fact that accountability as it
18 relates to Part C is equally as important as
19 accountability in Part B. To leave it out would
20 imply that Part C has a lower standard of
21 accountability. I am absolutely opposed to that
22 implication.

23

1 CHAIRMAN BRANSTAD: Dr. Lyon?

2 MR. LYON: I concur with that particular
3 rationale. At the same time, the discussion on page
4 31 about early identification and intervention
5 presents a fairly compelling picture of how useful it
6 can be. I would suggest that somehow those two
7 sections are tied together. That is, whatever
8 language it might take to indicate that while
9 testimony has indicated that early identification and
10 intervention programs are effective as seen in
11 section whatever on page 31, the implementation of
12 such has not proven, whatever that may be.

13 But you have two different discussions of
14 these things. On page 31, we are looking at
15 evidenced-based programs that have indicated positive
16 effectiveness.

17 MR. COULTER: Once again, my point is that
18 on page 31, that's in the assessment section, I think
19 that discussion is appropriate to what we have
20 demonstrated in assessment and programs in early
21 intervention. Once again, I think in this section,
22 we're talking about accountability as it relates to

23

1 those programs.

2 CHAIRMAN BRANSTAD: Commissioner Takemoto?

3 MS. TAKEMOTO: As the person who forwarded
4 this recommendation, I agree with Dr. Coulter, and I
5 agree with Dr. Fletcher's insertion of the language
6 in his recommendation 17 or amendment 17. I would
7 only limit my amendment to deleting the last
8 paragraph of this report as well as the section in
9 the recommendation 2 at the beginning -- that was
10 Bill Berdine's -- that we delete the text that says
11 "including a unified system of services for the 21",
12 just deleting those words from that recommendation.

13 CHAIRMAN BRANSTAD: Is that acceptable?
14 Dr. Coulter?

15 MR. COULTER: I haven't the foggiest idea
16 what she's talking about.

17 MS. TAKEMOTO: We will go back to the
18 recommendation afterwards. Let's talk about the
19 text. I have made an amendment that we will delete
20 all references to Part C. Listening to what it is
21 that you had to say, I agree with not only what you
22 said but also your endorsement of what Dr. Fletcher

23

1 has recommended here in his amendment 17. So I am
2 limiting the deletion terms to two things. One, the
3 last paragraph, which talks about what we recommend,
4 and also --

5 CHAIRMAN BRANSTAD: That's the last
6 paragraph on page 26 you're talking about?

7 MS. TAKEMOTO: Yes.

8 CHAIRMAN BRANSTAD: You're amending your
9 amendment to just delete the last paragraph on page
10 26?

11 MS. TAKEMOTO: And also, just in the
12 interest of time, the statement "Most states are not
13 serving approximately two percent of eligible
14 children suggested by the Centers for Disease
15 Control". I was informed that information received
16 by OSEP -- and I'm not sure of this -- but, Bob,
17 maybe you can help me out with this, that states are
18 now serving about two percent.

19 MR. PASTERNAK: Mr. Chairman, we use that
20 as a target. The question is where the target comes
21 from. I think it comes from immunological data
22 provided by the Centers for Disease Control, and

23

1 quite frankly, we're doing some research to make sure
2 we have a technically accurate report. We believe
3 that it may not in fact be from CDC. We're on the
4 track. We're on the trail.

5 CHAIRMAN BRANSTAD: What is the language
6 that you're deleting there on page 26?

7 MS. TAKEMOTO: I'm still at the top of
8 page 26. The line that begins on line 4: "However,
9 most states are not serving the approximately 2
10 percent of eligible children" suggested by the
11 Centers for Disease Control. Apparently some people
12 tried to look at that language.

13 I went to this 23rd report to go look at
14 what the facts were, because we thought we knew what
15 the facts were, so I wanted to go back, and when I
16 went back to the report from 1999, it's in the second
17 set of these I think, it said that the national
18 program, I mean, the national serving is 1.76 of
19 total population.

20 CHAIRMAN BRANSTAD: Dr. Coulter?

21 MR. COULTER: I think you just heard from
22 Dr. Pasternack that the incidence rate is less than 2

23

1 percent in some instances in some states, the
2 incidence rate being served under Part C is .7
3 percent.

4 MR. PASTERNAK: Mr. Chairman, I know it's
5 late. I know we've been at this for a long time. I
6 think the point is that we know that early
7 intervention works, and for this Commission not to
8 encourage states to have strong systems, accountable
9 systems of early intervention services for infants
10 and toddlers, birth through two, would be a missed
11 opportunity. So I just want to support the inclusion
12 of that language, and I think that Dr. Fletcher's
13 point is that we don't have rigorous research. We
14 don't have rigorous accountability on those systems,
15 and we need to have language in the report which
16 supports rigorous accountability for Part C, just as
17 Dr. Coulter eloquently stated.

18 CHAIRMAN BRANSTAD: I'm trying to get a
19 clarification on the amendment that Commissioner
20 Takemoto has offered. I know it's the last paragraph
21 on page 26. Is there a sentence up there in the
22 first paragraph you want to take out as well?

23

1 MS. TAKEMOTO: Yes. What I'd like to do
2 is, I'd just like to do it one at a time so we can
3 keep moving here. All I'm saying is I accept the
4 friendly amendment proposed by Dr. Coulter that the
5 text as stated in lines 2 through 18 remain the same,
6 making sure that it is technically correct, and that
7 the paragraph that begins on line 20 be deleted.

8 CHAIRMAN BRANSTAD: Is there a second to
9 that motion? You've withdrawn your first motion,
10 which was to delete this whole area, and now you just
11 want to delete this one paragraph, as I understand
12 it. Is there a second to that? Dr. Lyon does not
13 second it. If there's not a second, then I would say
14 that it dies for lack of a second. So at this point,
15 that dies for lack of a second. Dr. Coulter?

16 MR. COULTER: Mr. Chairman, I'd like to
17 move that we adopt Fletcher Number 17, which offers
18 substitute language on page 26, lines 3 and 4, that
19 we adopt the phraseology that he has between his
20 quotes.

21 MR. HUNTT: Second.

22 CHAIRMAN BRANSTAD: We have a motion by
23

1 Dr. Coulter, second by Commissioner Hunt to place
2 the language, we take the language of the Fletcher
3 amendment Number 17 within the quotes to replace the
4 language that's there on page 26. Discussion on that
5 motion?

6 (No response.)

7 CHAIRMAN BRANSTAD: All in favor of that
8 motion, signify by saying aye.

9 (Chorus of ayes.)

10 CHAIRMAN BRANSTAD: Opposed?

11 (No response.)

12 CHAIRMAN BRANSTAD: It is approved.
13 Commissioner Chambers?

14 MR. CHAMBERS: A minor editorial
15 recommendation on page 14, line 2.

16 CHAIRMAN BRANSTAD: Page 14, line 2.

17 MR. CHAMBERS: I call it the 814
18 requirements. It came out of nowhere. There's no
19 introduction to what it was, so I suggest we put 814
20 federal monitoring requirements, consistent with what
21 it is about 10 pages later.

22 CHAIRMAN BRANSTAD: Is that a motion?

23

1 MR. CHAMBERS: Yes.

2 MR. COULTER: I second it.

3 CHAIRMAN BRANSTAD: Moved by Commissioner
4 Chambers, seconded by Commissioner Coulter to add
5 "federal monitoring" after the 814, between 814 and
6 "requirements". Discussion?

7 (No response.)

8 CHAIRMAN BRANSTAD: All in favor of that
9 motion, signify by saying aye.

10 (Chorus of ayes.)

11 CHAIRMAN BRANSTAD: Opposed?

12 (No response.)

13 CHAIRMAN BRANSTAD: It is approved.
14 Commissioner Hunt?

15 MR. HUNTT: One other minor detail, page
16 22. I'd like to ask Commissioner Coulter if he'd
17 consider on line 5 --

18 CHAIRMAN BRANSTAD: Page 22, line 5.

19 MR. HUNTT: Take out the words "the" and
20 "successful functioning" and reads "work together to
21 reduce barriers to independence and full inclusion
22 for individuals with disabilities" period.

23

1 MR. COULTER: Is that a motion?

2 MR. HUNTT: It's a motion.

3 MR. COULTER: I second it.

4 CHAIRMAN BRANSTAD: We have a motion by
5 Commissioner Hunt, seconded by Commissioner Coulter
6 to make that adjustment. Discussion? We'll restate
7 that. I want to have Todd do that so we make sure we
8 get it right.

9 MR. JONES: On line 5, page 22, starting
10 at the beginning, "work together to reduce barriers
11 to independence and full inclusion of individuals
12 with disabilities."

13 CHAIRMAN BRANSTAD: Does everybody
14 understand that? All in favor of that motion,
15 signify by saying aye.

16 (Chorus of ayes.)

17 CHAIRMAN BRANSTAD: We have a question
18 here. Commissioner Bryan.

19 MS. BRYAN: I just want to make sure that
20 I'm clear. When you say "full inclusion", are you
21 talking about -- are we back to LRE?

22 MR. HUNTT: No. Full inclusion in terms

23

1 of full inclusion into American society.

2 MS. BRYAN: You might want to add, just so
3 there's not a misunderstanding, that this is not
4 representing LRE. Just add what you just said.

5 MR. HUNTT: What I would recommend is just
6 take "full inclusion" out and say "reduce barriers to
7 independence for individuals with disabilities."

8 CHAIRMAN BRANSTAD: So we have a friendly
9 amendment to your amendment I guess. Basically you
10 just substituted a new amendment. Dr. Coulter, do
11 you second that as well?

12 MR. COULTER: Yes.

13 CHAIRMAN BRANSTAD: We have a new revised
14 amendment. If you'd read the revised amendment
15 again, state it one more time, then we'll vote on it.

16 MR. HUNTT: Yes, Mr. Chairman. Line 5,
17 "Work together to reduce barriers to independence for
18 individuals with disabilities."

19 CHAIRMAN BRANSTAD: All in favor of that
20 motion, signify by saying aye.

21 (Chorus of ayes.)

22 CHAIRMAN BRANSTAD: Opposed?

23

1 (No response.)

2 CHAIRMAN BRANSTAD: It is approved. Now
3 we've got Dr. Pasternack's amendments here, page 4 of
4 25.

5 MR. PASTERNAK: Page 4 of 25. These are
6 the big ones that are easy to read, right? Mr.
7 Chairman, before I go on, we have many illustrious
8 guests in the audience, and I would like to introduce
9 to you very quickly a few who don't get any
10 recognition for the incredibly hard work that they
11 do. We have David Roe from OMB and Susan John from
12 the Domestic Policy Council. Both are tremendous
13 assets to students with disabilities in this country.
14 If they could stand and be recognized by the
15 Commission.

16 (Applause.)

17 CHAIRMAN BRANSTAD: Moving right along.

18 MR. PASTERNAK: On page 14, line 7, where
19 you have the word "IDEA", I want to move, just so
20 that it flows better, the new text would say, "And in
21 fact the Assistant Secretary for the Office of
22 Special Education and Rehab Services testified before
23

1 the Senate on March 21st that no state is in full
2 compliance with the IDEA." That is in the technical
3 edits that you have on page 4 of 25.

4 MR. COULTER: I second it.

5 CHAIRMAN BRANSTAD: Dr. Coulter seconds
6 it.

7 MR. PASTERNAK: Move unanimous consent.

8 CHAIRMAN BRANSTAD: All in favor of that
9 motion, signify by saying aye.

10 (Chorus of ayes.)

11 CHAIRMAN BRANSTAD: Opposed?

12 (No response.)

13 CHAIRMAN BRANSTAD: Approved. We're on a
14 roll. Just keep going.

15 MR. PASTERNAK: Same page, lines 23 to
16 24. Strike the words "for scientifically based
17 services" and add new text, "accountability and the
18 continuous improvement of students with disabilities
19 receiving special education".

20 CHAIRMAN BRANSTAD: Is there a second?

21 MR. COULTER: Second.

22 CHAIRMAN BRANSTAD: Second by Dr. Coulter.

23

1 All in favor of that motion, signify by saying aye.

2 (Chorus of ayes.)

3 CHAIRMAN BRANSTAD: Opposed?

4 (No response.)

5 CHAIRMAN BRANSTAD: It is approved.

6 MR. PASTERNAK: That was a healthy
7 endorsement. Page 16, line 6, strike "teacher
8 professionalism" and add "the ability of teachers to
9 focus on delivering --

10 CHAIRMAN BRANSTAD: It's been deleted, so
11 it's withdrawn.

12 MR. PASTERNAK: Great. Page 17, line 4,
13 add at the end, "The Commission recommends that the
14 current method required by the Secretary for a state
15 to demonstrate to the satisfaction of the Secretary
16 that the state has in effect policies and procedures
17 to ensure that it meets each of the conditions as
18 specified in the statute" be replaced by requiring
19 that states provide an assurance that such policies
20 and procedures are in effect.

21 Let me very quickly make Dr. Grasmick's
22 life a hell of a lot easier. What we do is require

23

1 an incredible amount of documentation for states that
2 has absolutely no value to the determination of their
3 eligibility. Dr. Gloeckler provided eloquent
4 testimony to this Commission on how much time he has
5 wasted on wordsmithing documents that we should not
6 be asking states to do. It simplifies the process
7 and reduces paperwork and allows us to focus more on
8 the needs of kids and getting money to states so they
9 can go about providing special education and related
10 services to kids with disabilities.

11 MS. GRASMICK: Second.

12 CHAIRMAN BRANSTAD: I'll recognize
13 Commissioner Grasmick's second. For the record, I
14 think there's a lot of other support here. All in
15 favor of that motion, signify by saying aye.

16 (Chorus of ayes.)

17 CHAIRMAN BRANSTAD: Opposed?

18 (No response.)

19 CHAIRMAN BRANSTAD: That's a little
20 better.

21 MR. PASTERNAK: Thank you. You've saved
22 a significant number of trees. The environmentalists

23

1 will thank you.

2 Moving on to page 17, I don't want to
3 strike the table. The table is important to have in
4 there showing how poorly we have done in delivering
5 on our promise to get reports out to states. Dr.
6 Sontag has correctly chastised us for that. There
7 happened to be some technical corrections that we
8 need to make because some of the numbers in there are
9 presented are incorrect, and if we can just see what
10 all of those are. I don't know if you want me to go
11 through those.

12 These are actually based on the data that
13 we have.

14 MR. JONES: Actually, let me back up. The
15 data in this chart is drawn directly from the
16 response of OSEP to the letter sent to OSEP at the
17 behest of Commissioner Sontag earlier in the spring.
18 The data was directly drawn from that letter.

19 MR. PASTERNAK: Mr. Chairman and Mr.
20 Jones, you are exactly right. However, the data that
21 were provided to the Commission were incorrect, and I
22 am just trying to make sure that the report is

23

1 correct before it goes to our great President.

2 CHAIRMAN BRANSTAD: Commissioner Sontag.

3 MR. SONTAG: I note in the Wisconsin data
4 that OSEP reported, if I recall correctly, my visit
5 started in February. It actually started three
6 months before that. So I would applaud your effort
7 to validate the data.

8 MR. PASTERNAK: Thank you, Commissioner
9 Sontag.

10 CHAIRMAN BRANSTAD: Is there a second to
11 that motion?

12 MS. GRASMICK: Second.

13 CHAIRMAN BRANSTAD: Second from
14 Commissioner Grasmick.

15 MR. PASTERNAK: I will apologize to the
16 Commission staff for the technical inaccuracies in
17 the data that were submitted. We are a big believer
18 in having the data be correct.

19 CHAIRMAN BRANSTAD: If there's no further
20 discussion, all in favor of the motion to correct the
21 information on the table, signify by saying aye.

22 (Chorus of ayes.)

23

1 CHAIRMAN BRANSTAD: Opposed?

2 (No response.)

3 CHAIRMAN BRANSTAD: It is approved.

4 MR. PASTERNAK: Page 18, there's a great
5 deal of discussion on the last administration about
6 the definition of "is".

7 (Laughter.)

8 MR. PASTERNAK: So we choose to strike
9 the word "is" and replace it with "are" on lines 14
10 through 16. Data are plural.

11 Moving right along. To strike determining
12 how states are implementing with "determine state
13 implementation of" and strike "making good on the
14 promise Congress has made to individuals" and replace
15 with "ensuring that children" and add "are provided
16 FAPE in the LRE" at the end of that sentence. That
17 would be -- and then new text would be added there:
18 "Performance are critical to determining state
19 implementation of federal law and ensuring that
20 children with disabilities and their families are
21 provided FAPE in the LRE."

22 And before I finish, just for my friend

23

1 and colleague, Commissioner Fleming, FAPE is the
2 acronym for Free and Appropriate Public Education.
3 And we've had a lot of discussion already today on
4 LRE -- least restrictive environment.

5 CHAIRMAN BRANSTAD: Is there a second?

6 MR. COULTER: Is that a motion?

7 CHAIRMAN BRANSTAD: There's a motion from
8 Dr. Pasternack.

9 MR. COULTER: Second.

10 CHAIRMAN BRANSTAD: Seconded from Dr.
11 Coulter. Discussion?

12 (No response.)

13 CHAIRMAN BRANSTAD: All in favor of the
14 motion, signify by saying aye.

15 (Chorus of ayes.)

16 CHAIRMAN BRANSTAD: Opposed?

17 (No response.)

18 CHAIRMAN BRANSTAD: It is approved.

19 MR. PASTERNAK: Thank you, Mr. Chairman.

20 Moving on to page 20, line 13. Replace the sentence
21 that starts "Moreover" with the following:

22 "Additionally, even though such authority

23

1 was incorporated into the 1997 amendments to the
2 IDEA, the Department of Education has not sent a
3 single case to the Department of Justice for
4 substantial noncompliance. However, OSEP has
5 consulted with the Department of Justice on several
6 occasions regarding issues in a particular state."

7 MR. COULTER: I second.

8 CHAIRMAN BRANSTAD: The motion from Dr.
9 Pasternack seconded by Dr. Coulter. Discussion?

10 (No response.)

11 CHAIRMAN BRANSTAD: All in favor of the
12 motion, signify by saying aye.

13 (Chorus of ayes.)

14 CHAIRMAN BRANSTAD: Opposed?

15 (No response.)

16 CHAIRMAN BRANSTAD: It is approved.

17 MR. PASTERNAK: The next one, Mr.

18 Chairman and members of the Commission, adding a new
19 paragraph to line 24, which I believe bolsters the
20 eloquent testimony we heard from Dr. Gloeckler:

21 Combining technical assistance and
22 monitoring appears to be a promising new strategy as
23

1 described in testimony presented by Larry Gloeckler
2 in Houston, Texas and explaining recent work in New
3 York State. The strategy there has been to follow up
4 OSEP monitoring with a focused effort on working with
5 the state to obtain technical assistance in the areas
6 cited during OSEP's visit. While technical
7 assistance and monitoring should be done separately
8 to ensure separately to ensure the objectivity of
9 monitoring, they should work together to improve
10 results. Monitoring is necessary but not sufficient
11 on its own to influence improvement.

12 I simply point out to the Commission that
13 we're not going to get true improved results only by
14 sanctions. We've got to look at what Dr. Gloeckler
15 is asking us to do, which is to combine technical
16 assistance based on the results of our monitoring.
17 Otherwise we're never going to get to excellence,
18 which is the goal of the Commission.

19 MR. BARTLETT: Second.

20 CHAIRMAN BRANSTAD: Seconded by Commission
21 Bartlett. Discussion?

22 (No response.)

23

1 CHAIRMAN BRANSTAD: All in favor of the
2 motion, signify by saying aye.

3 (Chorus of ayes.)

4 CHAIRMAN BRANSTAD: Opposed?

5 (No response.)

6 CHAIRMAN BRANSTAD: It is approved.

7 MR. PASTERNAK: Thank you Mr. Chairman,
8 members of the Commission. Moving on to page 22,
9 just a simple, one-line strike. Lines 6 to 8:
10 "This Commission is another example of the
11 President's intent to carefully examine and recommend
12 whatever changes are needed to achieve important
13 goals for individuals with disabilities."

14 It's just redundant, especially with the
15 nice addition that Commissioner Huntt eloquently
16 made.

17 MR. HUNTT: Second.

18 CHAIRMAN BRANSTAD: Motion by Dr.
19 Pasternack, seconded by Commissioner Huntt to please
20 delete this area. Discussion?

21 (No response.)

22 CHAIRMAN BRANSTAD: All in favor of the
23

1 motion, signify by saying aye.

2 (Chorus of ayes.)

3 CHAIRMAN BRANSTAD: Opposed?

4 (No response.)

5 CHAIRMAN BRANSTAD: It is approved.

6 MR. PASTERNAK: Next, page 27, lines 1
7 through 4. Strike "from systems" and replace with
8 the new text, "today much is known". It's just an
9 attempt to follow the law of parsimony, and it's
10 redundant.

11 MS. BUTTERFIELD: Second.

12 CHAIRMAN BRANSTAD: Seconded by Paula
13 Butterfield. Discussion?

14 (No response.)

15 CHAIRMAN BRANSTAD: All in favor of the
16 motion, signify by saying aye.

17 (Chorus of ayes.)

18 CHAIRMAN BRANSTAD: Opposed?

19 (No response.)

20 CHAIRMAN BRANSTAD: It is approved.

21 MR. PASTERNAK: Thank you Mr. Chairman
22 and Commissioners. On page 27, lines 12 through 13,

23

1 strike from where it says "this major step forward"
2 to the word "simplified". I'm sorry. Strike "this
3 major step forward towards achieving this goal is to
4 reduce federal regulatory burden, simplify
5 implementation and replace with a significant
6 reduction in the federal regulatory burden caused by
7 the current version of IDEA and simplified. We would
8 have new text, "urges a significant reduction in the
9 federal regulatory burden caused by the current
10 version of IDEA and simplified regulations".

11 I believe the Commission has gone on
12 record to support the need for us to reduce the
13 federal regulatory burden and simplify regulations.

14 CHAIRMAN BRANSTAD: Is there a second?

15 VOICES: Second.

16 CHAIRMAN BRANSTAD: Seconded by
17 Commissioner Grasmick. We have motion and second to
18 approve. Discussion?

19 (No response.)

20 CHAIRMAN BRANSTAD: All in favor of the
21 motion, signify by saying aye.

22 (Chorus of ayes.)

23

1 CHAIRMAN BRANSTAD: Opposed?

2 (No response.)

3 CHAIRMAN BRANSTAD: It is approved.

4 MR. PASTERNAK: We have a re-endorsement
5 here. Moving right along. The last one, page 27,
6 for the last amendment to this section. Line 14, add
7 period after "regulations" and insert the following:
8 "To achieve improved results, the United States
9 Department of Education must" and add with IDEA after
10 compliance. So the new text would say:

11 "To achieve improved results, the United
12 States Department of Education must provide quality
13 technical assistance and monitor compliance with IDEA
14 more effectively".

15 That speaks for itself.

16 MR. COULTER: Second

17 CHAIRMAN BRANSTAD: Moved by Dr.
18 Pasternack, seconded by Commissioner Coulter.
19 Discussion?

20 (No response.)

21 CHAIRMAN BRANSTAD: All in favor -- or
22 Commissioner Hassel.

23

1 MR. HASSEL: Would you accept saying
2 "monitor compliance and results more effectively"?

3 MR. PASTERNAK: Monitor compliance to
4 achieve results under the IDEA? I wouldn't mind
5 doing that. I think the intent is the same,
6 Commissioner Hassel.

7 CHAIRMAN BRANSTAD: That's a friendly
8 amendment.

9 MR. PASTERNAK: Let's see.

10 MR. HASSEL: To achieve results.

11 MR. PASTERNAK: To achieve more effective
12 results under the IDEA, something like that. Does
13 that sound good?

14 MR. HASSEL: Yes. Did you get that?

15 MR. JONES: I want to make sure we have it
16 correctly.

17 CHAIRMAN BRANSTAD: To achieve more
18 effective results.

19 MR. PASTERNAK: No. It would be to
20 achieve improved results, the United States
21 Department of Education must provide quality
22 technical assistance and monitor -- we already have

23

1 to achieve improved results at the beginning of the
2 sentence. That was my intent in the amendment.

3 MR. COULTER: I think the term is to
4 monitor compliance for results I think is what you
5 were trying to say. It may seem a little clumsy,
6 given that you have results in the first part.

7 MR. HASSEL: Good point.

8 MR. PASTERNAK: For the record, I don't
9 mind being called clumsy.

10 MR. COULTER: You may be clumsy, Dr.
11 Pasternack. I was referring to Dr. Hassel's proposed
12 amendment. You can be clumsy together.

13 CHAIRMAN BRANSTAD: Commissioner Hassel
14 has withdrawn. So we have the amendment. Was there
15 a second to the motion?

16 MR. COULTER: Yes.

17 CHAIRMAN BRANSTAD: Commissioner Coulter
18 seconds. Discussion?

19 (No response.)

20 CHAIRMAN BRANSTAD: All in favor of the
21 motion, signify by saying aye.

22 (Chorus of ayes.)

23

1 CHAIRMAN BRANSTAD: Opposed?

2 (No response.)

3 CHAIRMAN BRANSTAD: It is approved.

4 MR. PASTERNAK: Thank you, Mr. Chairman,
5 members of the Commission.

6 CHAIRMAN BRANSTAD: We are now ready to
7 move the section. Dr. Coulter, do you want to move
8 this section?

9 MR. COULTER: Mr. Chairman, I move that we
10 adopt the second section entitled "Change to Federal
11 Regulatory Monitoring Process, Reduce Paperwork and
12 Increase Flexibility".

13 MS. BUTTERFIELD: I second.

14 CHAIRMAN BRANSTAD: Moved by Commissioner
15 Coulter, seconded by Commissioner Butterfield to
16 approve this section of the report. Discussion?

17 (No response.)

18 CHAIRMAN BRANSTAD: All in favor of the
19 motion, signify by saying aye.

20 (Chorus of ayes.)

21 CHAIRMAN BRANSTAD: Opposed?

22 (No response.)

23

1 CHAIRMAN BRANSTAD: It is approved. No
2 we'll go on to the third section.

3 MR. JONES: The first amendment is
4 Fletcher 1.

5 MR. LYON: Mr. Chairman, I can comment on
6 the general comment and get that out of the way.
7 That references the National Reading Panel (2000).

8 MR. JONES: I got the technical piece from
9 Jack and he said he would send that too. Fletcher 1.

10 CHAIRMAN BRANSTAD: Is that a motion then?

11 MR. JONES: It doesn't matter, because
12 that's technical.

13 CHAIRMAN BRANSTAD: So it's a technical
14 amendment? So it's Fletcher 2 then?

15 (Pause.)

16 Somebody's going to move Fletcher 1? This
17 is page 30, lines 1 and 2.

18 MR. BARTLETT: Mr. Chairman, for
19 clarification, I assume there are no recommendations
20 from anyone on the Commission for any changes in the
21 actual recommendations, so this is all text, correct?

22 CHAIRMAN BRANSTAD: That's right.

23

1 (Pause.)

2 CHAIRMAN BRANSTAD: Is anybody prepared to
3 move Fletcher Number 1? Commissioner Takemoto?

4 MS. TAKEMOTO: I so move. These are
5 editorial changes that don't substantively change the
6 text nor the intent as far as I can see, the intent
7 of the task force. So I'm wondering if there's
8 someone who's willing to just move them all so that
9 we can move on.

10 CHAIRMAN BRANSTAD: That's fine.

11 MR. HUNTT: I move we accept the changes
12 in aggregate.

13 CHAIRMAN BRANSTAD: Commissioner Hunt.

14 MR. LYON: Second.

15 CHAIRMAN BRANSTAD: Commissioner Lyon
16 seconds the motion. This is all of them. Is that
17 right?

18 MR. HUNTT: One through eight.

19 CHAIRMAN BRANSTAD: This is Fletcher 1
20 through 8. We have a second already I think.
21 Discussion on these amendments?

22 (No response.)

1 CHAIRMAN BRANSTAD: Hearing none, all in
2 favor of the motion, signify by saying aye.

3 (Chorus of ayes.)

4 CHAIRMAN BRANSTAD: Those opposed?

5 (No response.)

6 CHAIRMAN BRANSTAD: They're approved. We
7 have one amendment, Pasternack Number 4.

8 MS. TAKEMOTO: Which of the Pasternack
9 packages?

10 CHAIRMAN BRANSTAD: The one with the
11 smaller print.

12 MS. TAKEMOTO: Dr. Pasternack was very
13 busy.

14 MR. HUNTT: I move we accept Dr.
15 Pasternack's amendment.

16 MR. PASTERNAK: You're bringing up my
17 amendment?

18 CHAIRMAN BRANSTAD: Yes. In fact,
19 Commissioner Huntt just moved your amendment.

20 MR. PASTERNAK: He's a good man,
21 Commissioner Huntt.

22 CHAIRMAN BRANSTAD: Do you want to second

23

1 it?

2 MR. PASTERNAK: Second.

3 CHAIRMAN BRANSTAD: Dr. Pasternack seconds
4 the amendment. Would you like to address the
5 amendment before we vote on it? We've already
6 approved all of the Fletcher amendments. They're
7 essentially technical amendments en bloc. This is in
8 the Identification and Assessment section.

9 MR. PASTERNAK: Mr. Chairman, members of
10 the Commission, I agree that it's just more language
11 to support the importance of early intervention
12 programs.

13 CHAIRMAN BRANSTAD: Any discussion?

14 (No response.)

15 CHAIRMAN BRANSTAD: All in favor of the
16 motion, signify by saying aye.

17 (Chorus of ayes.)

18 CHAIRMAN BRANSTAD: Opposed?

19 (No response.)

20 CHAIRMAN BRANSTAD: It is approved. I
21 believe that takes care of that section. We move
22 that entire section?

23

1 MR. PASTERNAK: So moved.

2 MR. HUNTT: Second.

3 CHAIRMAN BRANSTAD: Commissioner
4 Pasternack so moves and Commissioner Huntts seconds
5 the motion to approve that section, Section 3.
6 Discussion?

7 (No response.)

8 CHAIRMAN BRANSTAD: All in favor of the
9 motion, signify by saying aye.

10 (Chorus of ayes.)

11 CHAIRMAN BRANSTAD: Opposed, signify by
12 saying nay.

13 (No response.)

14 CHAIRMAN BRANSTAD: The section is
15 approved.

16 MR. PASTERNAK: I think, Mr. Chairman,
17 something ought to be sent to Dr. Fletcher commending
18 him for the incredible job. The section only
19 required a few small technical edits.

20 CHAIRMAN BRANSTAD: We're ready to move on
21 to the Personnel section.

22 MR. HUNTT: I would suggest that we not

23

1 have Pasternack send that letter.

2 CHAIRMAN BRANSTAD: We'll take a brief
3 break. We're through three sections, but we've got
4 four more to go. Do you want to keep going? We'll
5 take a five minute break, come back and keep going.

6 (Recess.)

7 CHAIRMAN BRANSTAD: I would call the
8 session to order if we can round people up and get
9 them in here.

10 The next section is the Professional
11 Development Section. Commissioner Hassel has the
12 first amendment.

13 MR. HASSEL: Ten and 11.

14 CHAIRMAN BRANSTAD: I'll recognize
15 Commissioner Hassel. Okay. Nine, 10 and 11.

16 MR. HASSEL: My recommendation 9 or
17 amendment 9. My concern here is that we talk a lot
18 about teacher shortage, yet we don't have very many
19 recommendations about how to address it. Most of our
20 recommendations are about how to improve the quality
21 of preparation and professional development, not
22 about recruitment of more highly qualified personnel.

23

1 So let me turn this into an amendment
2 that's three parts. Part A on page 40, line 4, which
3 is the very beginning of this section, insert the
4 words "recruit and" before the word "training". So
5 we start by saying "Recruit and train highly
6 qualified" and so forth.

7 Part B is on line 5 of the same page. To
8 insert a new sentence at the beginning of the
9 recommendation which reads: "States and districts
10 must devise new strategies to recruit more highly
11 qualified personnel into special education."

12 So put that right at the front. This is
13 not just about training, it's about recruitment. And
14 then my third part will actually come in the text of
15 the sections. So should I say that now or should we
16 come to that when we get to that part?

17 CHAIRMAN BRANSTAD: I think we can deal
18 with them all together if nobody objects.

19 MR. HASSEL: My third part is on page 46
20 where we're talking about the shortage, line 25, to
21 insert a new paragraph that reads:

22 "There is little research about effective
23

1 strategies to address the shortage. As a result, the
2 Commission calls on states and districts to devise
3 new approaches to recruiting highly qualified
4 personnel in special education. Promising strategies
5 include" -- and here is where I pick up some of the
6 text that's in my previously written amendments that
7 we did get -- "strategies include experimenting with
8 differential pay for teachers in shortage
9 specialties".

10 It should say "experimenting with
11 performance-based or knowledge and skills-based pay,
12 with the possibility of higher pay for successful
13 special education teachers, developing high quality
14 alternative routes into classrooms that enable high
15 potential teachers to enter the profession and
16 receive on-the-job professional development, and
17 improving working conditions of special education
18 teachers by reducing paperwork and mitigating the
19 adversarial nature of special education issues
20 addressed elsewhere in the report."

21 CHAIRMAN BRANSTAD: So you had changed
22 that training to professional development already?

23

1 MR. HASSEL: I think there was a comment
2 from Jack Fletcher in one of his recommendations that
3 training was not appropriate for professionals.

4 CHAIRMAN BRANSTAD: Dr. Coulter?

5 MR. COULTER: Mr. Chairman, I would just
6 like to encourage possibly certainly as a technical
7 amendment, but we refer throughout this section to
8 teachers when in fact the problem as it was advanced
9 to us that there are also shortages in related
10 services personnel, specifically in the areas of
11 occupational therapy, physical therapy and school
12 psychologists.

13 So I think we can talk about shortages.
14 We want to talk about shortages and teachers and
15 related services personnel. And whenever we're
16 talking about training and retaining, I think we want
17 to talk about not just teachers, also principals and
18 administrators. There are all educators.

19 MR. HASSEL: So anytime I said "teachers"
20 in that last area, we'll also say "educators"?

21 CHAIRMAN BRANSTAD: Commissioner Bryan?

22 MS. BRYAN: I agree with you on your
23

1 general approach to saying that we need to look at
2 some different ways of recruiting folks and getting
3 folks into the profession. But I'd like to make a
4 statement on the record, that worries me a little bit
5 because I really looked at some of the data on the
6 crisis in teachers in special education, and I think
7 the crisis language with respect to recruitment and
8 training may be a little bit overblown.

9 For instance, in the 1999-2000 school
10 staffing survey, the percentage of public school
11 teachers who taught special ed in elementary and had
12 an undergraduate or graduate major or minor on
13 special ed was 80 percent. Of all the teaching
14 specialties, particularly in the elementary grade
15 level, only arts and music had a higher proportion of
16 trained teachers. Other levels had much lower levels
17 of teachers that we had difficulty filling those
18 positions -- foreign language teachers, et cetera.

19 I think we've got to make all of this
20 relative in terms of if the special ed teachers are
21 the one that we really are having the hardest time
22 with, or is it in fact the nature of the profession?

1 Where we think about teacher shortages, we
2 look at large number of teachers leaving the
3 profession in their early years of teaching, and
4 actually NCES has reported that there's no other
5 profession entered into by students with a
6 baccalaureate degree that actually has more stability
7 over a five-year period other than teaching.

8 The predictions of large shortages haven't
9 materialized. One of the things I'm going to
10 recommend that avoid a little bit, I think we need to
11 talk about shortages and how we get more teachers,
12 but I think we have to be very cautious about
13 implying that there is a gigantic crisis that's going
14 to blow up on us, because it's been something that
15 has been true over time and it's true for other kinds
16 of teachers. We need to talk about shortage, but we
17 need to be very careful about using crisis language.

18 CHAIRMAN BRANSTAD: Dr. Coulter.

19 MR. COULTER: I would just submit
20 sometimes the data are very difficult to interpret.
21 For instance, in the state of Louisiana for now more
22 than 14 years, 30 percent of the special education

23

1 teachers are not fully certified. We tried to make a
2 distinction between certification and qualification.
3 In Illinois, the percentage of special education
4 teachers not fully certified for the last four years
5 in a row has hovered at 5 percent and hasn't changed.

6 I think what we're talking about here are
7 chronic shortages of people that are certified. I
8 think we also want to make these distinctions that
9 when these people do get trained, that they get
10 trained appropriately. But there is no doubt -- I
11 can share with you additional data if you need it --
12 we've had chronic shortages for a long time.

13 MS. BRYAN: I think one of the other
14 things that we need to consider, Commissioner
15 Coulter, is that we don't have any strong evidence
16 that certification creates more student achievement.
17 We've got to at least pay attention to the fact that
18 that may not -- I mean, it may be, but we don't have
19 any evidence so far that certification is in fact the
20 key variable that creates student achievement.

21 MR. COULTER: I would agree with you,
22 Commissioner Bryan. I think what we're talking about

23

1 are two different problems. We have chronic
2 shortages in the number of personnel who are
3 appropriately certified, and I would not in any way
4 want to imply that certification is equivalent to
5 personnel that can produce results. I think we need
6 to emphasize both of those items. That's why I just
7 don't want to dismiss the fact that we do have
8 chronic shortages.

9 CHAIRMAN BRANSTAD: Why don't you go
10 through and reiterate it again before we vote on it?

11 MR. HASSEL: My motion has three parts.
12 Part A, page 40, line 4. Insert the words "recruit
13 and" before the word "train".

14 VOICE: Second.

15 CHAIRMAN BRANSTAD: There's a second to
16 that. All in favor of the motion, signify by saying
17 aye.

18 (Chorus of ayes.)

19 CHAIRMAN BRANSTAD: Opposed?

20 (No response.)

21 CHAIRMAN BRANSTAD: It is approved.

22 MR. HASSEL: The second one, page 40 on
23

1 line 5, insert a new sentence at the beginning of the
2 recommendation that reads: "States and districts
3 must devise new strategies to recruit more highly
4 qualified personnel into special education."

5 CHAIRMAN BRANSTAD: Commissioner Takemoto?

6 MS. TAKEMOTO: I second for the purpose of
7 discussions. If we can talk about qualified
8 personnel to teach students in special education so
9 that it's a way -- it's just kind of technical, but
10 it's important that we're not just talking about
11 teachers in place, we're talking about teachers who
12 teach students with disabilities.

13 MR. HASSEL: How about recruit more
14 personnel who are highly qualified to educate
15 students with disabilities?

16 CHAIRMAN BRANSTAD: Do you have that
17 change? Okay. It's been moved and seconded.
18 Discussion? Further discussion?

19 MR. BARTLETT: Mr. Chairman?

20 CHAIRMAN BRANSTAD: Commissioner Bartlett.

21 MR. BARTLETT: Bryan, are you saying that
22 we need more personnel or more qualifications? I
23

1 think I heard you say more highly qualified. Is this
2 more qualifications or more personnel? What do you
3 mean is a larger number of highly qualified personnel
4 as opposed to more highly qualified. Is that right?

5 MR. HASSEL: Yes.

6 MR. BARTLETT: Larger numbers. You're
7 looking for more personnel that are highly qualified
8 as opposed to the same amount of personnel that are
9 more highly qualified?

10 MR. HASSEL: It kind of goes back to Ann's
11 question of is there a shortage. If there is, we
12 need larger numbers of personnel who are highly
13 qualified. If it's not, it's just a matter of
14 whoever it is that we're recruiting that they be
15 highly qualified. It's simplest just to say recruit
16 more personnel that are highly qualified.

17 MR. BARTLETT: I would concur with that.

18 CHAIRMAN BRANSTAD: We have a motion and
19 it's been seconded to approve. Discussion?

20 (No response.)

21 CHAIRMAN BRANSTAD: All in favor of the
22 motion, signify by saying aye.

23

1 (Chorus of ayes.)

2 CHAIRMAN BRANSTAD: Opposed?

3 (No response.)

4 CHAIRMAN BRANSTAD: Part 2 is approved.

5 MR. HASSEL: Part 3 is on page 46, line

6 25. Insert a new paragraph. I wrote this down:

7 "There is little research about effective strategies
8 to address the shortage. As a result, the Commission
9 calls on states and districts to devise new
10 approaches to recruiting highly qualified personnel."

11 Or let me rephrase this along the lines of
12 Cherie's new approaches to recruiting personnel who
13 are highly qualified to educate students with
14 disabilities. Same language:

15 "Promising strategies include" -- here's
16 where I take out from the text that I gave you --
17 "experimenting with performance-based" -- I'm sorry -
18 - "experimenting with differential pay for educators
19 in shortage specialties, experimenting with
20 performance-based or knowledge and skills-based pay
21 with the possibility of higher pay for successful
22 special educators; developing high quality

23

1 alternative routes into the classroom that enable
2 high potential educators to enter the profession and
3 receive on-the-job professional development, and
4 improving working conditions of special educators by
5 reducing paperwork and mitigating the adversarial
6 nature of special education issues addressed
7 elsewhere in the report."

8 CHAIRMAN BRANSTAD: Is there a second to
9 that motion?

10 VOICE: Second.

11 CHAIRMAN BRANSTAD: Discussion?
12 Commissioner Chambers?

13 MR. CHAMBERS: I guess I read this last
14 night so I'm not sure I have absorbed everything in
15 the section. But is there something in here that's
16 going to create an incentive for districts to do
17 this? Additional funding or supportive programs to
18 accomplish these goals? Immediately the first thing
19 I picture is districts being up against the unions in
20 some of these issues, and if there isn't any
21 incentive to do it, they might say why should I fight
22 this? Why do I want to do this? Other than the fact
23

1 that they're all facing shortages.

2 MR. HASSEL: I would not be in favor of
3 specific incentives to do these things. The
4 incentives come from the accountability for results
5 that we put in in other parts of the Commission's
6 report. That creates an incentive to improve
7 performance which creates an incentive to improve
8 highly qualified personnel. This is more by way of
9 suggesting strategies. I would not be in favor of a
10 federal program to try and get states to do certain
11 things with pay. I just think that's not a good
12 federal role.

13 MR. CHAMBERS: Then I would argue we're
14 going to have to really put somebody's feet to the
15 fire for that incentive to have an impact.

16 MR. HASSEL: That's true.

17 CHAIRMAN BRANSTAD: Commissioner Bryan?

18 MS. BRYAN: I think one of the things that
19 will be an ultimate incentive, as we have found with
20 alternative certification in regular education
21 programs, is that once folks realize there are other
22 ways of looking at certification and other ways of

23

1 providing highly qualified teachers in the classroom,
2 that may in fact bring in even more competent folks.

3 There's beginning to be more of an
4 understanding of how these people can really be very
5 effective, and it's not a cost issue. I'll give you
6 an example. One of the gentlemen who actually
7 presented at one of the teacher quality conferences
8 came in under the Troops to Teachers program and is a
9 special education teacher -- I'm sorry Nancy's not
10 here -- in Baltimore, Maryland. Quite effective.
11 Gets excellent student results. Yet he came in under
12 a totally different mechanism than the standard
13 mechanism, and it's because the state accepted that
14 and utilized him.

15 I think states are beginning more and more
16 to realize -- Paula can speak to this, and I know
17 Dave can speak to it, but I think we're seeing more
18 and more understanding of the fact that we need to go
19 different routes, and I think Bryan's suggestion
20 would be well received.

21 CHAIRMAN BRANSTAD: Commissioner Horn?
22 I'm going to have to step out for about half an hour.

23

1 I'll be back, but I'm going to ask Commissioner Hunt
2 to preside in my absence. I'm going to ask
3 Commissioner Hunt to take the chair. I have to step
4 out for a brief other meeting. I'll be back.

5 MS. BUTTERFIELD: Does this mean we'll
6 have more opportunity or less to be heard?

7 CHAIRMAN BRANSTAD: He's going to have to
8 recognize you all. There's going to be a little role
9 reversal here.

10 MR. HORN: The paragraph that Commissioner
11 Hassel suggests is eminently reasonable. It simply
12 says that states should experiment with new ways to
13 recruit qualified teachers and suggests a list of
14 possible options. There's no mandate. There's no
15 requirement. It just seems to be a reasonable
16 paragraph.

17 MR. HUNTT: (Presiding) Commissioner
18 Butterfield?

19 MS. BUTTERFIELD: I agree. I think some
20 of the issues like pay do become local issues, but
21 the state is the one that generally sets
22 certification, and I know that there are states that

23

1 are experimenting like the state of Washington, for
2 administrative certification so that they can allow
3 others to go into those leadership positions. So I
4 think the wording is good and it gives that option.

5 MR. HUNTT: Commissioner Sontag?

6 MR. SONTAG: I think the schools of
7 education have had the franchise a long time, and I
8 think the introduction of this kind of language will
9 send a message that they need to be part of the
10 solution and not just the gatekeeper.

11 I particularly applaud the language, while
12 it's not being amended on lines 17 through 24, which
13 really talk about significant changes in personnel
14 funding which reinforce this notion of getting away
15 from the new wrinkle of the day for special projects
16 and personnel preparation is applauded. To me,
17 sustaining high quality programs in state practice I
18 think are the way to go.

19 MR. HUNTT: Commissioner Takemoto?

20 MS. TAKEMOTO: I think if we look at
21 different paradigms when we look at students in
22 schools today, they aren't students with this label

23

1 plastered on their head. I think that's what the
2 previous report spoke to. I'm wondering, and I'm
3 deferring to folks who know more about this than I
4 do, but it seems to me that included in the options
5 should be ways for all educators to teach all
6 children, including children with disabilities and
7 speakers of other languages so we can incorporate
8 some of the early intervention.

9 Special education has a big role to play
10 in early intervention and preventing kids from going
11 into special education. And when we talk about the
12 two separate systems, help me, Dr. Butterfield. Is
13 there other language in here somewhere that supports
14 that concept that we are teaching students and not
15 categories or labels?

16 MS. BUTTERFIELD: I'd have to look back,
17 but I believe we did attempt to address that. And I
18 think when we talk about alternative certification,
19 for instance, we have many regular educators who are
20 precluded perhaps from teaching because they need to
21 have a special educator in the room with them or
22 whatever. They have the skills that are necessary.

23

1 There's a lot of overlap. That's where
2 one of my big concerns is on-the-ground training, on-
3 site training instead of just what's happening in the
4 college. Sometimes the districts are able to offer
5 that. It's not a certification. And they've got the
6 training they need, and we need to be able to offer
7 an alternative certification.

8 I do believe we addressed it in here. As
9 I recall the discussion we had last time, it almost
10 sounded like the idea of finance. There are regular
11 ed students, then there are special ed students, not
12 either/or. There's a combination of the two.

13 MS. TAKEMOTO: In doing so, we just have
14 to start acknowledging thinking about that as one of
15 the authoring principles. That these students are
16 regular students first and have many facets. Also in
17 the area of teacher certification, special educators
18 have a lot to offer general education, and the
19 benefit should not be restricted to students with
20 disabilities.

21 So I don't know if we can add a little bit
22 about models for teaching all students, including

23

1 regular and speakers of other languages or something
2 like that. Just acknowledge that we're not talking
3 about a person with disabilities. It just seems to
4 me that part of this inclusion problem is that kids
5 are running from place to place to place because this
6 person has this certification and this person has
7 that certification. So we have a system that is
8 structured. We have students that have to be
9 structured or labeled to fit the system versus a
10 system that is structured to fit the students whom we
11 already have in our classroom.

12 MR. HUNTT: Commissioner Hassel?

13 MR. HASSEL: It seems like something we
14 should consider as an amendment somewhere. I'm not
15 sure if this gets into the recruitment question. It
16 might be better to amend some part where we're
17 talking about special development, induction or
18 mentoring.

19 MR. HUNTT: Commissioner Fleming?

20 MR. FLEMING: I think there's something
21 that must be said here at this point, not only from
22 the recruitment of teachers, but as I read a lot of

23

1 the data and some that was even suggested in our
2 report of who the pupils are in special education, it
3 is pointed out that we're talking about a great
4 number of minority students, especially African
5 American students, and a much smaller attraction of
6 African American teachers into that.

7 Kind of borrowing from my own two decades
8 plus of trying to not only teach special ed students
9 but also to help train special education teachers,
10 there's just something that keeps gnawing at me that
11 says our basic level of attraction to get them into
12 the field is one of the problems. Then once they are
13 in that classroom and really feel that the amount of
14 behavior disorders that they have to keep them coming
15 back day after day, we just have to think in terms of
16 something when we're talking about a design for that
17 program that will allow teachers that are almost on
18 that front line to have some kind of R&R or some kind
19 of ability to stay the course so they can begin to
20 recognize that they're dealing with more than just
21 the six instructional hours a day.

22 MR. HUNTT: Thank you, Commissioner

23

1 Fleming. Do you have something to add to the motion
2 then?

3 MR. FLEMING: Like I said, I thought about
4 it, and I just became more radical in how I was
5 looking at it, and that's why I was saying six hours
6 a day, maybe we start off in this appeal to change
7 how teachers teach is less time for the teaching
8 until they actually began to balance this
9 instructional period versus this actual behavioral
10 period.

11 Everybody on the front lines really knows
12 that you do not accomplish six instructional hours a
13 day because you're dealing with so much behavior.
14 And I think at some point, possibly our committee
15 can't commit or speak to it, but somewhere at the
16 local level they should be able to have a way of not
17 punishing that person who cannot do that.

18 MR. HUNTT: Thank you. I'll ask Todd to
19 read the motion again, please.

20 MR. JONES: On page 46, line 25, insert a
21 new paragraph:

22 "There is little research about
23

1 about effective strategies to address the shortage.

2 As a result, the Commission calls on states and
3 districts to devise new approaches to recruiting
4 personnel who are highly qualified to educate
5 students with disabilities. Promising strategies
6 include:

7 "Experimenting with differential pay for
8 educators in shortage specialties, experimenting with
9 performance-based or knowledge and skills-based pay
10 with the possibility of higher pay for successful
11 special educators;

12 "Developing high quality alternative
13 routes into the classroom that enable high potential
14 educators to enter the profession and receive on-the-
15 job professional development; and

16 "Improving working conditions of special
17 educators by reducing paperwork and mitigating the
18 adversarial nature of special education (issues
19 addressed elsewhere in this report)."

20 MR. HUNTT: Commissioner Sontag?

21 MR. SONTAG: Would you read the portion of
22 the motion again, the portion on supplemental pay?

23

1 MR. JONES: "... experimenting with
2 performance-based or knowledge and skills-based pay
3 with the possibility of higher pay for successful
4 special educators".

5 MR. HUNTT: The motion has been moved and
6 seconded. Any other discussion?

7 (No response.)

8 MR. HUNTT: All in favor, say aye.

9 (Chorus of ayes.)

10 MR. HUNTT: Opposed?

11 (No response.)

12 MR. HUNTT: The amendment carries. We're
13 now at Bill Berdine amendments 5 and 6. Is there
14 someone who will carry the amendment?

15 (Pause.)

16 MR. BARTLETT: Mr. Chairman, I'll move
17 amendment number 5.

18 MR. HUNTT: Motion on the floor.

19 MR. LYON: Second.

20 MR. HUNTT: Any discussion?

21 (No response.)

22 MR. HUNTT: All in favor say aye.

23

1 (Chorus of ayes.)

2 MR. HUNTT: Opposed?

3 (No response.)

4 MR. HUNTT: The amendment carries. Number
5 6.

6 MR. JONES: We should have done the Bryan
7 amendment.

8 MS. BRYAN: The way it reads in your
9 printed material is not quite accurate, and that's my
10 bad handwriting. It should read "formal teacher
11 training". This is at the very end of the very first
12 recommendation, sentence 10, line 10: "Formal
13 teacher training should also focus on solid research
14 about how students learn and what teacher
15 characteristics are most likely to produce student
16 achievement" simply as an emphasis on the facts.

17 MR. HUNTT: Do I hear a second?

18 MR. PASTERNAK: Second.

19 MR. HUNTT: Any discussion? Dr. Lyon?

20 MR. LYON: Would you be amenable to saying
21 formal teacher training should build or should be
22 based upon solid research?

23

1 MS. BRYAN: Sure.

2 MR. HUNTT: Do you accept the friendly
3 amendment?

4 MR. LYON: I'm sitting next to her.

5 MS. BRYAN: Yes.

6 MR. HUNTT: Any other discussion?

7 (No response.)

8 MR. HUNTT: All in favor say aye.

9 (Chorus of ayes.)

10 MR. HUNTT: Opposed?

11 (No response.)

12 MR. HUNTT: The amendment carries.

13 Commissioner Bryan. Now we go to Bill Berdine number
14 6.

15 MR. BARTLETT: The word choices we'd
16 provide on line 20, training that provides them with
17 a comprehensive view of general education as opposed
18 to training that affords them with a realistic view I
19 think is a better word selection.

20 MR. HUNTT: Thank you, Commissioner
21 Bartlett. Second?

22 MS. BUTTERFIELD: Second.

23

1 MR. HUNTT: Second Dr. Butterfield. Any
2 discussion?

3 (No response.)

4 MR. HUNTT: All in favor say aye.

5 (Chorus of ayes.)

6 MR. HUNTT: Opposed?

7 (No response.)

8 MR. HUNTT: The amendment carries. Dr.
9 Pasternack, 5. Thank you, Commissioner Butterfield.
10 Dr. Pasternack?

11 MR. PASTERNAK: Five on page 41.

12 MS. TAKEMOTO: I'm looking at which
13 Pasternack 5?

14 MR. PASTERNAK: The one that says
15 amendments proposed by Bob Pasternack. The second
16 page of that is my third set of amendments. But on
17 page 41, replace lines 16-17 with the following:

18 "The recommendation would be increase
19 special education and related services faculties.
20 Institutions of higher education" --there's a typo
21 there where it says "high education". Different
22 meaning. "Institutions of higher education should

23

1 recruit and train more fully qualified professors of
2 special education to address the severe shortage of
3 special education-related service doctorate holders
4 for qualified teachers and the nation's future
5 educators based on testimony that we heard, and the
6 need to address the current shortage of faculty at
7 colleges and universities."

8 MS. TAKEMOTO: I second.

9 MR. HUNTT: Any discussion? Commissioner
10 Takemoto?

11 MS. TAKEMOTO: I am trying to incorporate
12 Dr. Wright's very valid point in the last meeting
13 that we need to make sure that we are addressing also
14 our culturally diverse student population. I'm
15 wondering if we're not only qualified to teach our
16 nation's future educators who are well prepared to
17 achieve results for our diverse student needs.

18 MR. HUNTT: I've been informed by Mr.
19 Jones that cultural diversity is addressed on page 52
20 of the document on minority teacher recruitment.

21 MS. TAKEMOTO: I'm not just talking about
22 minority teachers. I think there's a bigger issue.

23

1 There is the issue of minority teachers that Dr.
2 Fleming has brought up. There's also the issue of
3 teachers who are prepared to teach diverse students
4 or prepared to achieve results for diverse students.

5 MR. HUNTT: Are you turning this into a
6 motion?

7 MR. PASTERNAK: I think she's trying to
8 make a friendly amendment, Mr. Chair.

9 MR. HUNTT: Thank you for that direction,
10 Dr. Pasternack. Would you read it back, please?

11 MR. PASTERNAK: I believe it would say
12 now:

13 "Institutions of higher education should
14 recruit and train more fully qualified professors,
15 especially education professors with doctorates in
16 special education who are qualified to teach our
17 nation's future educators and prepare them to achieve
18 results for diverse students."

19 MR. HUNTT: Mr. Sontag?

20 MR. SONTAG: Previously we approved some
21 language for alternative certification approaches.
22 And I'm wondering, here we focus just on institutions

23

1 of higher education. Would we possibly not want to
2 broaden that to include institutions that would be
3 sources of alternative teacher training?

4 MR. PASTERNAK: Mr. Chairman,
5 Commissioner Sontag, I understand what you're saying.
6 This is based on testimony that we got in terms of
7 the critical shortage that universities are facing.
8 I understand what you're saying. I'm fine if you
9 want to come up with some language to put in there.

10 MR. SONTAG: I think that response is
11 adequate for my concern.

12 MR. HUNTT: Thank you, Commissioner
13 Sontag. Any other discussion on the amendment as
14 amended by the friendly amendment?

15 (No response.)

16 MR. HUNTT: All in favor, please say aye.

17 (Chorus of ayes.)

18 MR. HUNTT: Opposed?

19 (No response.)

20 MR. HUNTT: The amendment carries.

21 MR. PASTERNAK: Thank you, Mr. Chair.

22 The next is I have one more recommendation which

23

1 would be, in capsule would read: Conduct research,
2 and then we'd say the Department of Education should
3 conduct research to determine all the critical
4 factors of personnel preparation that improve student
5 performance for schools. While recent research has
6 begun to determine critical factors and instruction,
7 more high quality research is needed on instructional
8 variables that improve student achievement.

9 MS. BUTTERFIELD: I second that.

10 MR. HUNTT: Second by Dr. Butterfield.

11 Any discussion? Dr. Lyon?

12 MR. LYON: Friendly amendment. Some
13 suggested language. Would you be comfortable with
14 "The Department of Education and other federal
15 agencies"?

16 MR. PASTERNAK: I would be very
17 comfortable with that friendly amendment.

18 MR. SONTAG: There goes NIH trying to
19 expand its budget again.

20 (Laughter.)

21 MR. HUNTT: Losing control here.

22 DR. LYON: The Department of Education and
23

1 other federal agencies should conduct research to
2 identify.

3 MR. PASTERNAK: Do you want to put
4 something about, Dr. Lyon, the Department of
5 Education in collaboration with other federal
6 partners?

7 MR. LYON: Yes. Should conduct research
8 to, instead of determine, identify. Strike all the
9 critical factors in the preparation of special
10 educators that improve student learning and
11 achievement.

12 MR. PASTERNAK: Let's see what we've got
13 here:

14 The Department of Education, in
15 collaboration with other federal agencies, should
16 conduct research to identify the critical factors in
17 personnel preparation that improve the performance of
18 students with disabilities in schools.

19 MR. LYON: Or the learning and
20 achievement. I just want to be a bit more specific.

21 MR. PASTERNAK: What have we got here
22 then? The Department of Ed -- help me out here --

23

1 will conduct research to identify the critical
2 factors in?

3 MR. LYON: The preparation of special
4 educators that improve student learning and
5 achievement.

6 MR. HUNTT: Do you accept that as a
7 friendly amendment, Dr. Pasternack?

8 MR. PASTERNAK: Absolutely, Mr. Chairman.

9 MR. HUNTT: Commissioner Takemoto?

10 MS. TAKEMOTO: In a very friendly way,
11 rather than say training special educators, I'd like
12 the terminology "personnel preparation", to be a
13 broader, inclusive statement.

14 MR. HUNTT: Do you accept that Dr.
15 Pasternack?

16 MR. PASTERNAK: Would you accept that,
17 Dr. Lyon? I believe it gets to the point that 50
18 percent of students with disabilities are spending 80
19 percent or more of their time in general education
20 settings. So I think that goes back to the original
21 intent. I'll scratch Dr. Lyon's friendly amendment
22 and go back to the original preparation language.

23

1 MR. HUNTT: For the benefit of all of us,
2 would you re-read the motion, please?

3 MR. PASTERNAK: Certainly, Mr. Chair:

4 "The Department of Education in
5 collaboration with other federal agencies should
6 conduct research to identify the critical factors in
7 personnel preparation that improve student learning
8 and achievement in schools. Although recent research
9 has begun to determine critical factors in
10 instruction, more high quality research is needed on
11 instructional variables."

12 Should that read "needed to identify
13 instructional variables"?

14 MR. LYON: More high quality research is
15 needed.

16 MR. PASTERNAK: To identify new
17 instructional variables to identify student
18 achievement.

19 MS. TAKEMOTO: I think that's fine.

20 MR. PASTERNAK: I can't even remember my
21 own intent.

22 MR. LYON: The issue is how in fact those
23

1 variables are reported by teachers. That's what
2 you're trying to get at. We know what it is. We
3 know some of what is important in instruction and how
4 to in fact provide teachers with that information.

5 MR. PASTERNAK: That's the practice
6 issue, right. I'll just go back and say -- I
7 apologize, Mr. Chair. One last time:

8 "The Department of Education in
9 collaboration with other federal agencies should
10 conduct research to identify the critical factors and
11 personnel preparation that improves student learning
12 and achievement in schools. While recent research
13 has begun to determine critical factors, more high
14 quality research is needed on instructional variables
15 that improve student achievement."

16 MR. HUNTT: Any other discussion?

17 (No response.)

18 MR. HUNTT: All in favor, please say aye.

19 (Chorus of ayes.)

20 MR. HUNTT: Opposed?

21 (No response.)

22 MR. HUNTT: The amendment carries. Thank

23

1 you, Dr. Pasternack. Commissioner Bryan, time for
2 your amendment. Page 41.

3 MS. BRYAN: Page 41, line 19. The current
4 language says "Our nation is at risk of ending the
5 progress in educating children with disabilities",
6 which strikes me as a little overstated. I think it
7 probably would be more accurate to say, "Our nation
8 is less likely to serve children with disabilities
9 well because of our failure to appropriately train,
10 recruit mentor" and than rather than saying "this
11 crisis", just say "this will not only undermine our
12 efforts to increase", et cetera, et cetera.

13 MR. HUNTT: Is there a second?

14 MR. BARTLETT: Second.

15 MR. HUNTT: Is there discussion? Dr.
16 Lyon?

17 MR. LYON: I was just wondering if
18 Commissioner Bryan's recommendations are primarily
19 editorial. Is there any way we can accept them en
20 bloc?

21 MR. HUNTT: If you'd like to. Would you
22 like to make a motion to accept them en bloc?

23

1 MR. LYON: I move that Commissioner
2 Bryan's recommendations through page 51 be accepted
3 en bloc.

4 VOICE: Second.

5 MR. HUNTT: We have a motion and a second.
6 Discussion?

7 MS. BRYAN: We can go through page 42.

8 MR. LYON: Except for page 42, line 18.

9 MR. HUNTT: Dr. Pasternack, are you still
10 seconding?

11 MR. PASTERNAK: Ten four.

12 MR. HUNTT: Any discussion?

13 (No response.)

14 MR. HUNTT: All in favor say aye.

15 (Chorus of ayes.)

16 MR. HUNTT: Opposed?

17 (No response.)

18 MR. HUNTT: The motion carries.

19 Commissioner Bryan.

20 MS. BRYAN: This goes down to line 25,
21 page 42, is that correct?

22 MR. JONES: Actually, somebody else is

23

1 coming first. That would be Berdine 7. So
2 Commissioner Berdine on 7, page 42, lines 5 and 6.

3 MR. HUNTT: Anyone want to carry the
4 amendment?

5 MS. BRYAN: I'll carry it for the purpose
6 of discussion.

7 MR. PASTERNAK: I'll second it for the
8 purpose of discussion.

9 MR. HUNTT: There's a motion and a second.
10 Any discussion?

11 MS. BRYAN: I'm concerned because I think
12 this was put in for a very specific reason. It says
13 those programs, meaning a lot of teacher preparation
14 programs, fail to provide that knowledge they
15 themselves lack the valid scientific knowledge
16 necessary to teach children with disabilities today.
17 I think that was a very purposeful statement, and it
18 may just not be clear in terms of the syntax. We may
19 need to say those teacher preparation programs fail
20 because many of the faculty lack the valid scientific
21 knowledge.

22 MR. HUNTT: You want to friendly amend?
23

1 MS. BRYAN: I'm not sure if Bill would
2 consider it friendly or not, but that's how I'd like
3 to amend it.

4 MR. HUNTT: Why don't we vote on the
5 Berdine amendment, and if it doesn't pass, we'll take
6 your amendment? So we're voting on the Berdine
7 amendment, which is going to be subsequently amended
8 by Commissioner Bryan. All in favor say aye.

9 MR. PASTERNAK: Mr. Chairman, before we
10 do that, I would urge that we defeat the Berdine
11 amendment so that we can get to the attempt that
12 Commissioner Bryan has just stated.

13 MR. HUNTT: That's the intent of the
14 chair. All in favor say aye.

15 (No response.)

16 MR. HUNTT: Opposed?

17 (Chorus of noes.)

18 MR. HUNTT: That motion is defeated.
19 Commissioner Bryan?

20 MS. BRYAN: The language I would like to
21 see in here -- Paula, help me, because you helped me
22 decide. Those teacher preparation programs failed to

23

1 provide that knowledge because many faculty lack the
2 valid scientific knowledge necessary to teach
3 children with disabilities today." That's it.

4 MS. BUTTERFIELD: I'll second that.

5 MR. HUNTT: Repeat that one more time,
6 please.

7 MS. BRYAN: "Those teacher education
8 programs" -- excuse me -- "teacher preparation
9 programs failed to provide that knowledge because the
10 faculty lack the valid scientific knowledge necessary
11 to teach children with disabilities today."

12 MS. BUTTERFIELD: May in fact.

13 MR. HUNTT: Is there a second?

14 MS. BUTTERFIELD: Second.

15 MR. HUNTT: Any other discussion?

16 (No response.)

17 MR. HUNTT: All in favor say aye.

18 (Chorus of ayes.)

19 MR. HUNTT: Opposed?

20 (No response.)

21 MR. HUNTT: The amendment carries. Thank
22 you, Commissioner Bryan. Commissioner Bryan, page

23

1 42.

2 MS. BRYAN: I thought we already did line
3 8. We're all the way down here. There's a sentence
4 beginning on line 25. It says the number of
5 unqualified special education teachers is higher. I
6 want to delete that sentence and say, "However, data
7 does not indicate that certification necessarily
8 provides a qualified teacher. Therefore, we must
9 provide better indicators of what preparation and
10 measures constitute a qualified teacher."

11 MR. HUNTT: Second?

12 MR. PASTERNAK: Dr. Pasternack.

13 MR. HUNTT: Discussion?

14 MR. PASTERNAK: Would Commissioner Bryan
15 accept just a friendly grammatical change and say
16 "data do not" rather than does not?

17 MS. BRYAN: Yes.

18 MR. HUNTT: Commissioner Hassel?

19 MR. HASSEL: Would you accept, instead of
20 saying what preparation and measures constitute the
21 qualified special education teacher, something like
22 what skills and competencies?

23

1 MS. BRYAN: That's much better than what I
2 said.

3 MR. HASSEL: Constitute quality for
4 special educators or something, what skills and
5 competencies constitute quality for special
6 educators.

7 MR. LYON: Skills and abilities constitute
8 competence.

9 MS. BRYAN: I'd like to get the word in
10 there, "qualified special", because there's a lot, as
11 you know, of legal language floating around right now
12 on qualified teacher, et cetera. So I think it would
13 be nice if we could mention a qualified special
14 education teacher. So say that again.

15 MR. HASSEL: What skills and abilities
16 constitute competence in a qualified special
17 education teacher.

18 MS. BRYAN: That's superb.

19 MR. HUNTT: I need to know where that's
20 going.

21 MR. HASSEL: Page 42, lines 25 to 26, near
22 the end, delete "preparation" and so on, and replace
23

1 it with "what skills and abilities constitute
2 competence for a qualified special education
3 teacher".

4 MR. HUNTT: Commissioner Takemoto?

5 MS. TAKEMOTO: Thinking it's not
6 necessarily special education teachers that we're
7 talking about here, I was wondering, constitute
8 teachers who are qualified to achieve results for
9 students with disabilities.

10 MS. BRYAN: Even better.

11 MR. HUNTT: Do you take that as a friendly
12 amendment? Okay. We need someone to read that one
13 more time. Bryan, do you want to tackle it?

14 MR. HASSEL: What skills and abilities
15 constitute competence for a teacher qualified to
16 achieve results for students with disabilities. Is
17 that right? Thank you.

18 MR. HUNTT: Any other discussion? Mr.
19 Bartlett?

20 MR. BARTLETT: I wonder if you'd accept
21 one more friendly amendment. And that it is, it
22 seems to be to be true, though, that the number of

23

1 unqualified special education teachers is high, and
2 I'm not sure that we shouldn't say it. It seems to
3 me that we should say that. I'd accept the rest of
4 your amendment if you'd kind of keep the words, "the
5 number of unqualified special education teachers is
6 high". Isn't that what we found?

7 MS. BRYAN: That's fine.

8 MR. BARTLETT: You'd accept to put that
9 back in?

10 MS. BRYAN: Yes.

11 MR. HUNTT: Thank you, Commissioner
12 Bartlett.

13 MR. FLEMING: Do we have any data to make
14 that determination between qualified and unqualified?

15 MS. BRYAN: That's why I struck it. We
16 know about certification, but we don't know about
17 qualified. We can suppose, and I think what you're
18 saying is accurate. We've got a pretty good feel for
19 the fact. The only thing we have data on is
20 certification. That's why I struck it to begin with.

21 MR. HUNTT: Any other discussion?
22 Commissioner Chambers.

23

1 MR. CHAMBERS: Was there enough testimony
2 before the Commission? I hadn't attended those
3 meetings. But testimony to that effect?

4 MR. BARTLETT: We had testimony, both
5 anecdotal, mostly anecdotal. I don't recall any hard
6 data other than Alan Coulter has told us continuously
7 that there is hard data. I just didn't see it, and
8 he's left the room.

9 MS. BUTTERFIELD: I can provide it.

10 MS. BRYAN: Commissioner, I can give you
11 hard data in the sense that children are not making
12 the kinds of gains they ought to be making, and that
13 may be your data.

14 MR. LYON: We also have substantial data
15 indicating that both special educators and general
16 educators report that they don't feel qualified to
17 address individual's differences.

18 MR. HUNTT: Thank you. Any other
19 discussion?

20 (No response.)

21 MR. HUNTT: All in favor of the motion,
22 say aye.

23

1 (Chorus of ayes.)

2 MR. HUNTT: Opposed?

3 (No response.)

4 MR. HUNTT: The motion carries.

5 Commissioner Bryan.

6 MS. BRYAN: I think this overlaps some of
7 Commissioner Fletcher's recommendations as well. I
8 want to make sure I'm not going ahead of myself.

9 MR. HUNTT: We're looking at Fletcher 1.

10 MS. BRYAN: What I'm going to recommend
11 will take care of Fletcher 1, line 12, the sentence
12 that begins, "Beyond the cognitive ability of the
13 teacher". What I would like to put in there is, "The
14 most important factor contributing to a teacher's
15 effectiveness in producing student achievement gains
16 is that teacher's verbal ability." What it does is
17 cross out that entire sentence. It's replacing that
18 entire sentence.

19 MR. HUNTT: Second?

20 MS. BUTTERFIELD: I second.

21 MR. HUNTT: Dr. Butterfield seconds.

22 Discussion? Commissioner Hassel?

23

1 MR. HASSEL: I agree with the new
2 statement. Then it creates a sort of non sequitur.
3 We're saying verbal ability is the most important
4 factor, then we go on to start talking about teacher
5 preparation. We could replace the word "cognitive"
6 with the word "verbal", and that would make the
7 beginning of the sentence more specific and accurate.

8 But the second thing we're doing is
9 getting rid of the rest of the sentence about focused
10 training.

11 MS. BRYAN: We don't have any good
12 evidence that that focused training is any different
13 either. That's a very generic term, "focused
14 training".

15 MR. LYON: If we look in the hierarchy at
16 those characteristics that predict student
17 achievement, verbal ability is the top. Then comes
18 content specific knowledge. And I think that's
19 what's meant by her focus, content specific
20 knowledge, followed by general pedagogical knowledge,
21 followed by some other things. So if one wanted to
22 replace "focused" with "content specific knowledge".

23

1 MR. HUNTT: Thank you. Commissioner
2 Bartlett.

3 MR. BARTLETT: I just heard Reid Lyon say
4 focused training is in fact the most important. The
5 data would support that it did have an effect on
6 teacher effectiveness.

7 MR. LYON: "Focused" meaning content
8 specific. Teachers don't just understand general
9 principles. They have been provided very specific
10 focus.

11 MR. BARTLETT: Do we have data that says
12 that focused training meaning content specific is the
13 most important factor in teachers' effectiveness?

14 MR. LYON: After verbal ability, yes.

15 MR. BARTLETT: So you have data that says
16 verbal ability is the single most?

17 MR. LYON: Yes.

18 MR. BARTLETT: And that focused training
19 is the second?

20 MR. LYON: Content specific training. For
21 example, we can lay them all out for you, that
22 masters degrees are in seventh place, experience is

23

1 kind of in sixth place. These are just coming in in
2 terms of their predictive capability. So a teacher's
3 verbal ability is most highly related to achievement
4 in their students, followed by the amount of training
5 in the specific subjects they're teaching, the
6 content area subjects.

7 MR. BARTLETT: Is there something in third
8 place that's close?

9 MR. LYON: Yes. We're going to have to
10 check this for you, but it would be general
11 pedagogical knowledge, how you deliver the
12 instruction.

13 MR. BARTLETT: Mr. Chairman, I suppose my
14 concern here is that we're sort of selecting one or
15 two pieces of data out of what sounds like a fairly
16 massive piece of research or maybe a modest piece of
17 research. I don't know, sort of pulling it out and
18 saying, there, gosh, I told you so. It was always
19 verbal training. I mean, I've seen special education
20 teachers with a high level of verbal ability just
21 absolutely zero effectiveness in teaching, total
22 negative effectiveness in teaching reading skills

23

1 because they were verbally reading to their students.

2 There's a lot of verbal ability there, but
3 there ain't no teaching going on. So I'm not sure
4 this paragraph is quite ready for prime time. We
5 might want to reword it to say that the great Reid
6 Lyon has a whole lot of research there and then list
7 the ingredients that you found. I wouldn't just pick
8 one out.

9 MR. LYON: I think the point is very well
10 taken. It has to be taken in the aggregate. There
11 are a number of factors or conditions taken together
12 that predict student achievement. They just happen
13 to carry more weight from this to that. I think --

14 MR. HUNTT: Commissioner Bryan?

15 MS. BRYAN: Let me tell you what I'm
16 worried about on this, because there's a lot of folk
17 wisdom out there about what constitutes an effective
18 teacher and what constitutes a teacher that will
19 provide strong student achievement.

20 There is very, very good research that
21 shows that verbal ability is the number one predictor
22 in general. There may be some circumstances where it

23

1 doesn't apply, but in general, a teacher's verbal
2 ability seems to be the single best predictor, and I
3 can get you Dr. Russ Whitehurst's synthesis of all
4 the research on teacher quality. Part of the problem
5 is, we don't have loads of research across the board,
6 but we have enough to know that that particular piece
7 really is significant.

8 We also have enough to know that
9 certification is not one of the predictors.

10 MR. BARTLETT: Mr. Chairman, I'd ask if
11 the two sponsors could perhaps take this one under
12 advisement, leave this section open and come back to
13 us tomorrow with more of a complete picture of what
14 we're trying to say rather than sort of taking verbal
15 ability out of context and sticking it in.

16 MR. HUNTT: Motion to table?

17 MR. BARTLETT: To postpone consideration.
18 We'll keep it open. It just sounds to me like it
19 needs a lot more work than just to pull out verbal
20 ability. And if we're going to try to tell them in
21 this Presidential Commission report what's important
22 in teacher training, we ought to spend perhaps a
23

1 little more time with what the data says. I would
2 stipulate the data says that. I just think it says a
3 lot more from what you're saying.

4 MR. HUNTT: Commissioner Chambers?

5 MR. CHAMBERS: Just as a matter of
6 clarity, if I recall the research that I've seen in
7 this area, when you say teacher verbal ability,
8 basically what you're talking about is a short 10 to
9 30 item test of vocabulary for teachers. Am I
10 correct about that? I think that might be worth --
11 I'm just listening to Commissioner Bartlett. It
12 suggests that we may not have an understanding of
13 exactly what they were talking about or what the
14 measure was. Maybe some clarification understanding
15 what that measure is or how it's measured is probably
16 useful here.

17 MR. HUNTT: Commissioner Hassel?

18 MR. HASSEL: Furthermore, this verbal
19 ability finding implies just across the board general
20 education. It's not specific to special education.
21 I agree with Commissioner Bartlett, we need some more
22 work on this. But I guess I would recommend not

23

1 getting into this list of what factors affect student
2 learning, because we really don't know, when it comes
3 to the broad range of special education students what
4 teacher factors affect learning, and we really ought
5 to go right into saying that teacher preparation,
6 whatever it looks like, needs to focus on research-
7 based courses, that kind of thing, and not try to
8 start talking about something we don't know a whole
9 lot about.

10 MR. HUNTT: Commissioner Bryan?

11 MS. BRYAN: I'm fine with that. The thing
12 I want to make sure we don't do is start talking
13 about the fact that certain other things are
14 excellent predictors when in fact we don't have any
15 data to show that they are. The reason I brought
16 this up here is because there are some things I want
17 to delete further on down the road that have
18 absolutely no evidence. They're folk wisdom about
19 what constitutes good preparation.

20 So I don't mind leaving it out. What I
21 would say is just delete that entire sentence.

22 MR. BARTLETT: Mr. Chairman, I'd make a
23

1 motion. I'd move that we postpone consideration of
2 this item until tomorrow morning. Then if we don't
3 have some new wording, we can leave it out. But I
4 think it's important enough that if we can get some
5 wording that says that we're happy with it, we ought
6 to have it in there. We can always leave it until
7 tomorrow morning.

8 MR. HUNTT: Point of clarification. We'll
9 keep the motion. We'll postpone the motion until
10 tomorrow. Do I have a second on that?

11 MR. HASSEL: Second.

12 MR. HUNTT: All in favor, aye.

13 (Chorus of ayes.)

14 MR. HUNTT: Any opposed?

15 (No response.)

16 MR. HUNTT: Thank you, Commissioner
17 Bartlett.

18 MR. JONES: The next one is simultaneous.
19 It's Berdine 8.

20 MR. HUNTT: We have Berdine 8.
21 Commissioner Bryan. Anyone that wants to carry Bill
22 Berdine's motion or amendment?

23

1 MR. LYON: For purposes of discussion if I
2 could.

3 MR. HUNTT: Thank you, Dr. Lyon. Do I
4 have a second?

5 MR. PASTERNAK: I'll second it for
6 purposes of discussion.

7 MR. HUNTT: Seconded by Dr. Pasternack.
8 Dr. Lyon.

9 MR. LYON: Right. What I would suggest to
10 Commissioner Berdine and the Commissioners is that
11 the last sentence read, "The Commission finds that
12 both pre-service and professional development must
13 ensure that instruction in pedagogy is research based
14 and linked directly to student learning and
15 achievement".

16 MR. HUNTT: Thank you. We'll accept that
17 as a friendly amendment before the Chair gets back.
18 Can you restate it, please?

19 MR. LYON: The last sentence would read
20 that "both pre-service and professional development
21 must ensure that instruction in pedagogy is research
22 based and linked directly to student learning and
23

1 achievement".

2 MR. HUNTT: Do we have a second?

3 MS. BUTTERFIELD: Second.

4 MR. HUNTT: Any discussion?

5 (No response.)

6 MR. HUNTT: All in favor of the motion,
7 signify by saying aye.

8 (Chorus of ayes.)

9 MR. HUNTT: Opposed?

10 (No response.)

11 MR. HUNTT: Now it's appropriate for me to
12 remove to the governor as Chair of the Commission. I
13 relinquish all my proxy votes.

14 CHAIRMAN BRANSTAD: (Presiding) Thank you
15 very much. Thank you for your good work.

16 MS. BUTTERFIELD: Mr. Chairman, he did an
17 excellent job.

18 CHAIRMAN BRANSTAD: We'll make sure that's
19 in the minutes then. What's the next amendment?

20 MS. BRYAN: Actually Bryan page 43, which
21 I'll withdraw.

22 MR. JONES: That's right. Yours became
23

1 moot.

2 MS. BRYAN: Page 44, line 4. Rather than
3 and appears in a position to help students in
4 general, may be in a position. We don't really have
5 data on that.

6 VOICE: Second.

7 CHAIRMAN BRANSTAD: We have a motion and a
8 second to approve this amendment. Discussion?

9 (No response.)

10 CHAIRMAN BRANSTAD: All in favor signify
11 by saying aye.

12 (Chorus of ayes.)

13 CHAIRMAN BRANSTAD: Opposed?

14 (No response.)

15 CHAIRMAN BRANSTAD: It is approved. The
16 next one is -- Commissioner Bryan, you have the next
17 amendment as well.

18 MS. BRYAN: 44, line 7. Would help
19 students know what would be expected of them in
20 teaching. I think we have to be extremely careful in
21 saying that it plays an important role, because,
22 again, we don't have the data that really tells us it

23

1 does. It's an assumption right now. All we can do
2 is say that we think it might help.

3 MS. BUTTERFIELD: Second.

4 CHAIRMAN BRANSTAD: We have a motion and a
5 second by Commissioner Butterfield. It's supposed to
6 be in teaching instead of in reading. Okay. Is
7 there discussion on this?

8 (No response.)

9 CHAIRMAN BRANSTAD: All in favor of the
10 motion, signify by saying aye.

11 (Chorus of ayes.)

12 CHAIRMAN BRANSTAD: Opposed?

13 (No response.)

14 CHAIRMAN BRANSTAD: It is approved.

15 MS. BRYAN: The next one just follows up
16 on that. It's line 8, recommends. Frankly, I'm a
17 little reluctant to do it because again, we're
18 recommending something that we don't know for certain
19 if it has an impact. I think we need to be careful
20 about making a highly definitive statement. Just
21 simply say "recommends that college and university
22 teacher training programs", not say "must", but

23

1 recommends that they provide exposure.

2 MR. BARTLETT: Second.

3 CHAIRMAN BRANSTAD: There's a motion by
4 Commissioner Bryan, seconded by Commissioner Bartlett
5 to approve. Discussion?

6 (No response.)

7 CHAIRMAN BRANSTAD: All in favor of the
8 motion, signify by saying aye.

9 (Chorus of ayes.)

10 CHAIRMAN BRANSTAD: Opposed?

11 (No response.)

12 CHAIRMAN BRANSTAD: It is approved. We
13 have Fletcher 2. Is there somebody that's going to
14 handle this amendment?

15 (Pause.)

16 Page 45, lines 15 through 17.

17 MR. HUNTT: I move we delete the lines per
18 the amendment.

19 CHAIRMAN BRANSTAD: Commissioner Huntt
20 moves that the lines be deleted. Is there a second?

21 MR. PASTERNAK: Second.

22 CHAIRMAN BRANSTAD: Seconded by

23

1 Commissioner Pasternack. Is there discussion?

2 (No response.)

3 CHAIRMAN BRANSTAD: If there's no
4 discussion, all in favor of the motion, signify by
5 saying aye.

6 (Chorus of ayes.)

7 CHAIRMAN BRANSTAD: Opposed?

8 (No response.)

9 CHAIRMAN BRANSTAD: It is approved.

10 MR. JONES: Next would be Commissioner
11 Bryan. I'm sorry, Commissioner Pasternack, 16 of 25.

12 CHAIRMAN BRANSTAD: This is the large big
13 print one, right? What page are we on?

14 MR. PASTERNAK: Page 25, line 24, add "in
15 order" after "need". Add "of evidence based
16 instructional practices for students with
17 disabilities" after "community".

18 MR. HUNTT: Second.

19 CHAIRMAN BRANSTAD: We have a motion by
20 Commissioner Pasternack, seconded by Commissioner
21 Hunt. Discussion?

22 (No response.)

23

1 CHAIRMAN BRANSTAD: All in favor of the
2 motion, signify by saying aye.

3 (Chorus of ayes.)

4 CHAIRMAN BRANSTAD: Opposed?

5 (No response.)

6 CHAIRMAN BRANSTAD: It's approved.

7 MR. PASTERNAK: I would also agree that
8 this is an area of research we desperately need in
9 order to inform the education community of evidence
10 based instructional practices for students with
11 disabilities. Thank you for approving that. I
12 believe you did already. Since that was part of the
13 change, I wanted to make sure everybody noticed that.

14 CHAIRMAN BRANSTAD: So we did that
15 together. It was all on that page.

16 MR. PASTERNAK: Unless there's any
17 opposition, I just wanted to make sure everybody knew
18 what they were voting for.

19 CHAIRMAN BRANSTAD: That was all one
20 amendment, right?

21 MR. PASTERNAK: Yes, sir, Mr. Chairman.

22 CHAIRMAN BRANSTAD: I would think it was a
23

1 little premature there, but thank you.

2 MR. PASTERNAK: Premature amendment
3 syndrome. Thank you, Mr. Chairman.

4 (Laughter.)

5 MR. JONES: Commissioner Bryan.

6 CHAIRMAN BRANSTAD: Commissioner Bryan,
7 you have the next amendment I understand.

8 MS. BRYAN: Page 46, line 2. SIMPLY again
9 scratching the word "critical". There's a shortage
10 of personnel.

11 CHAIRMAN BRANSTAD: Is there a second?

12 MS. BUTTERFIELD: Second.

13 CHAIRMAN BRANSTAD: Seconded by
14 Commissioner Butterfield. Discussion?

15 (No response.)

16 CHAIRMAN BRANSTAD: All in favor of the
17 motion, signify by saying aye.

18 (Chorus of ayes.)

19 CHAIRMAN BRANSTAD: Opposed?

20 (No response.)

21 CHAIRMAN BRANSTAD: It's approved. Thank
22 you very much. Any grammatical or technical errors,

23

1 be sure to give it to Todd.

2 MR. PASTERNAK: We'll consider it in the
3 36 pages of technical amendments.

4 MR. CHAMBERS: Do a global search for
5 "this data", by the way. That should be "these
6 data".

7 MR. PASTERNAK: That's in my technical
8 edits.

9 CHAIRMAN BRANSTAD: Commissioner Bryan,
10 page 47.

11 MS. BRYAN: Line 14, page 47. Just simply
12 adding a sentence to the end of that paragraph that
13 says "It is important that research efforts focus on
14 teacher characteristics which promote student
15 learning and achievement.

16 MR. BARTLETT: Second.

17 CHAIRMAN BRANSTAD: The motion by
18 Commissioner Bryan, seconded by Commissioner
19 Bartlett. Discussion?

20 (No response.)

21 CHAIRMAN BRANSTAD: All in favor of the
22 motion, signify by saying aye.

23

1 (Chorus of ayes.)

2 CHAIRMAN BRANSTAD: Opposed?

3 (No response.)

4 CHAIRMAN BRANSTAD: It's approved.

5 MS. BRYAN: I have one more.

6 CHAIRMAN BRANSTAD: You're on a roll.

7 Just keep at it.

8 MS. BRYAN: Line 16, the very first
9 sentence. "The solution lies with creating more data
10 and putting that data to use." I would propose that
11 we delete the remainder of the paragraph, and with
12 all due respect to Commissioner Berdine, I think it
13 is inappropriate for this Commission to recommend any
14 one program to the rest of the United States for
15 doing some type of data analysis, because I think we
16 run a risk that somebody else is doing something very
17 similar, and they're saying why did you do this one
18 and not -- I like mine.

19 I think we can get the same message
20 across without referencing a highly specific program,
21 which I think is probably quite good. I don't know.
22 I just think it's inappropriate. And if we can say

23

1 "A solution lies with creating more data and putting
2 that data to use" and then jumping down to number 24,
3 "The Commission recommends the state and local
4 agencies that are in partnerships with universities
5 and colleges".

6 CHAIRMAN BRANSTAD: Seconded?

7 MS. BUTTERFIELD: Second.

8 CHAIRMAN BRANSTAD: Motion by Commissioner
9 Bryan, seconded by Commissioner Butterfield on this
10 amendment. Discussion?

11 (No response.)

12 CHAIRMAN BRANSTAD: All in favor of the
13 motion, signify by saying aye.

14 (Chorus of ayes.)

15 CHAIRMAN BRANSTAD: Opposed?

16 (No response.)

17 CHAIRMAN BRANSTAD: It's approved.

18 MR. JONES: Next we move to Commissioner
19 Bryan.

20 CHAIRMAN BRANSTAD: Commissioner Bryan,
21 page 49.

22 MS. BRYAN: I am proposing on page 49 that
23

1 we delete both the box about professional development
2 and the five federally funded studies, because I am
3 concerned about the quality of the way that this
4 information was obtained. I think we don't know
5 beyond a shadow of a doubt that these are the
6 characteristics that constitute effective
7 professional development.

8 These were not actual serious research
9 studies on what manages to create student
10 achievement, and I think we need to be very cautious
11 about recommending something that does not have
12 really solid research data behind it.

13 MR. JONES: Commissioner Bryan, as a
14 technical matter, on page 48, there's a cross-
15 reference to this box in the final paragraph. I
16 would just suggest you need to decide how you want to
17 handle that and the sentences around it as well.
18 Certainly the cross-reference you'd have to --

19 MS. BRYAN: I think if we just delete that
20 parenthesis we're okay. Because the rest of it is
21 applicable.

22 MR. HUNTT: Second as amended.

23

1 CHAIRMAN BRANSTAD: We have a motion by
2 Commissioner Bryan, seconded by Commissioner Huntt
3 that includes eliminating that language on page 48 in
4 addition to the other parts which have been in the
5 printed amendment.

6 MS. BRYAN: I want to add here, just so
7 everybody's clear, I am not recommending doing away
8 with Commissioner Butterfield's box.

9 CHAIRMAN BRANSTAD: You're talking about
10 the one at the top on 49?

11 MS. BRYAN: No. I'm talking about her box
12 down here towards the bottom. That's not part. It's
13 just those other two items, the box at the top, then
14 the list of the five items, but not her box.

15 CHAIRMAN BRANSTAD: I understood that.

16 MR. BARTLETT: Point of information.
17 You're just deleting Bill Berdine's stuff today.

18 (Laughter.)

19 CHAIRMAN BRANSTAD: Any other discussion
20 on that?

21 (No response.) All in favor of the motion,
22 signify by saying aye.

23

1 (Chorus of ayes.)

2 CHAIRMAN BRANSTAD: Opposed?

3 (No response.)

4 CHAIRMAN BRANSTAD: It is approved.

5 MS. BRYAN: Guys, I think I'm almost
6 finished. Page 50, line 2. Again, I think we need
7 to be very cautious about recommending very specific
8 programs that we think something ought to conform to,
9 and I would leave out the sentence about professional
10 development should conform to standards listed by our
11 particular organization.

12 CHAIRMAN BRANSTAD: Is there a second?

13 MR. BARTLETT: Second.

14 CHAIRMAN BRANSTAD: Seconded by
15 Commissioner Bartlett.

16 MS. BUTTERFIELD: Just for the record, I
17 know this is something that Dr. Coulter insisted that
18 we put in. He's not here anymore, so we can go ahead
19 and vote it out.

20 CHAIRMAN BRANSTAD: Does anybody know his
21 rationale? Commissioner Takemoto?

22 MS. TAKEMOTO: I don't know his rationale,

23

1 but I also don't know what those standards are. I
2 think that there is a need for someone to have
3 standards, but I don't know what this group is,
4 because this isn't my field. But it's not clear to
5 me what it is that we're endorsing if we don't know
6 what those standards say. And since I'm not
7 familiar, I don't know what to do about that.

8 MR. HUNTT: Mr. Chairman?

9 CHAIRMAN BRANSTAD: Commissioner Hunt.

10 MR. HUNTT: I don't know what Commissioner
11 Coulter's rationale was. Perhaps he just wanted to
12 make sure that professional development should
13 conform to accepted standards. Would it be possible
14 rather than speaking on the specific standard
15 measurement, to have "professional development should
16 conform to accepted national standards", period,
17 without being specific?

18 MR. PASTERNAK: No. We don't have
19 accepted national standards.

20 CHAIRMAN BRANSTAD: Reid Lyon?
21 Commissioner Lyon.

22 MR. LYON: I just want to make sure I
23

1 understand. I concur with making sure that we're
2 completely accurate in promoting a set of standards.
3 I think the concern is -- let me make sure I'm
4 hearing you right -- that the standards that are
5 being presented themselves do not yet have the
6 research base to actually serve the standards. If
7 that's the case and we do have standards, it's either
8 a lack of standards or a lack of implementation of
9 those standards.

10 So would it not behoove us when we get to
11 the research section to talk about a specific need,
12 if we haven't already, to identify the critical
13 characteristics that teachers must possess in order
14 to achieve student learning and so forth in a
15 classroom? I mean, I certainly don't want the
16 Commission to be seen as not adhering to a set of
17 standards, but we've got to be clear that either
18 those standards aren't available or they are, or if
19 they are, they're not being implemented correctly,
20 which drives research to figure out why.

21 MR. BARTLETT: Point of clarification.
22 Will Dr. Coulter be back in the room?

23

1 MR. PASTERNAK: No.

2 MR. BARTLETT: If Beth Ann has good valid
3 reasons to believe that these are not standards that
4 we ought to be following, then we shouldn't put them
5 in the report. We don't have to put them in the
6 report if we don't like them. We have one
7 Commissioner here who is very knowledgeable who tells
8 us that they're no darn good.

9 MS. BRYAN: I think the point is, I don't
10 know if they're any good or not. I think we've got
11 to be awfully careful about adopting a whole set of
12 something that we all haven't looked at very
13 carefully.

14 MR. BARTLETT: Better safe than sorry.
15 Let's not put them in at all. We don't have to say
16 anything about them.

17 CHAIRMAN BRANSTAD: We have a motion
18 before us. It's been seconded. It's been discussed.
19 All in favor of the motion, signify by saying aye.

20 (Chorus of ayes.)

21 CHAIRMAN BRANSTAD: Opposed?

22 (No response.)

23

1 CHAIRMAN BRANSTAD: It's approved.

2 MS. BRYAN: The last one, page 51, this is
3 about reading teaching. There's a sentence on line 9
4 that says, this knowledge fails to adequately prepare
5 new teachers to teach reading, et cetera. It
6 addresses more the issue of how many courses someone
7 gets as opposed to the quality of the coursework. I
8 would like to delete that sentence and put in place
9 of it, "The quality of this coursework is often
10 questionable."

11 MS. BUTTERFIELD: Second.

12 CHAIRMAN BRANSTAD: Motion by Commissioner
13 Bryan, seconded by Commissioner Butterfield that
14 would delete lines 1 through 3 on page 51 and add,
15 "The quality of this coursework is often
16 questionable." Discussion?

17 (No response.)

18 CHAIRMAN BRANSTAD: All in favor of the
19 motion, signify by saying aye.

20 (Chorus of ayes.)

21 CHAIRMAN BRANSTAD: Opposed?

22 (No response.)

23

1 CHAIRMAN BRANSTAD: It is approved. I
2 have been informed that there's still an item to be
3 worked out in this section, so it should now be voted
4 on.

5 MR. BARTLETT: Mr. Chairman, I'd be
6 prepared to make a motion, unless there are further
7 amendments, that we close the section, with the
8 exception of the one item that's been postponed for
9 further consideration, and adopt the section as
10 amended.

11 CHAIRMAN BRANSTAD: Similar to what we did
12 on the section earlier.

13 MS. BUTTERFIELD: Second.

14 CHAIRMAN BRANSTAD: It's moved by Bartlett
15 and Butterfield. Moved by Bartlett, seconded by
16 Butterfield. The chair recognizes Commissioner
17 Takemoto.

18 MS. TAKEMOTO: To put my words where my
19 lack of words were at the beginning of this
20 discussion, I did draft some language to incorporate
21 the diverse learners and how teachers need to adapt
22 to students and not the other way around. I don't

23

1 know whether it would be in the interest of time, and
2 because this is this long and folks haven't seen it,
3 if we can leave it open to entertain another
4 amendment related to that subject tomorrow.

5 MR. BARTLETT: I'll accept that as a
6 friendly amendment to my motion, and I'll amend my
7 motion.

8 CHAIRMAN BRANSTAD: The seconder also
9 approves that. Commissioner Butterfield, is that
10 okay? We'll accept that as a friendly amendment,
11 that it will be held open for those two purposes.
12 With that, all in favor of the motion, signify by
13 saying aye.

14 (Chorus of ayes.)

15 CHAIRMAN BRANSTAD: Opposed?

16 (No response.)

17 CHAIRMAN BRANSTAD: The section is
18 approved, with those exceptions.

19 MR. BARTLETT: Mr. Chairman, Commissioner
20 Sontag and Commissioner Flake. We'd like to have a
21 brief recess here.

22 CHAIRMAN BRANSTAD: It would be my
23

1 intention that we will take this and we will recess
2 for the day then come back in tomorrow morning and
3 wrap it up then.

4 MR. BARTLETT: Mr. Chairman, if this does
5 require holding over on more than that, but if we can
6 dispense with it tonight, I think we're better off,
7 because we had a full discussion. This is in the
8 text, and I think Todd earlier said what the page is.

9 As I recall, it's on page 8 or 9 or
10 something like that, but it's in the text, not a
11 recommendation. And you'll recall that the purpose
12 of this is to try to achieve that balance where we
13 acknowledge that not every child in every day is
14 going to be in the mainstream, and that's not the
15 goal. But the least restrictive environment is a
16 basic civil right that we're going to keep to.

17 And third, that we find we believe that
18 many states are just simply woefully inadequate. I
19 took out the "wholly unsatisfactory", but I still
20 believe it. But nevertheless, that may states just
21 aren't getting the job done, so we've tried to
22 incorporate those three thoughts to try to bring some

1 clarity to what was a fairly unclear, murky, highly
2 charged debate earlier today, and then also the task
3 force, because somebody said, well, obviously, that
4 glass is half full, somebody else says, well, wait a
5 minute, you stupid fool, you can see that it's half
6 empty. Then we go off debating such nonsense.

7 So the amendment reads, and it would
8 simply be inserted on page 9: The least restrictive
9 environment is a statutory requirement that applies
10 to all students with disabilities. The central
11 issues is to establish the optimal LREs to
12 effectively educate students in the most integrated
13 setting possible, combining both integrated setting
14 and effectively educate. The Commission recognizes
15 that it may be appropriate for some children to
16 receive same time or supplemental services. That's
17 apparently a word of art that I believe Commissioner
18 Sontag added, to receive same time or supplemental
19 services in smaller group settings.

20 LRE is designed to individually determine
21 the most appropriate education setting for each
22 student. Each student's IEP should seek to determine

1 the setting or settings that are the most appropriate
2 and effective in achieving positive outcomes,
3 consistent with the least restrictive environment.
4 That's what we're trying to achieve -- the least
5 restrictive environment is the outcome.

6 The Commission, then -- and this is the
7 Bartlett side of it -- the Commission believes that
8 in many states the rate of progress in meeting the
9 LRE settings is unsatisfactory. Those states should
10 achieve higher levels of inclusion than are currently
11 being achieved.

12 That is the statement.

13 CHAIRMAN BRANSTAD: Is there a second?

14 MR. LYON: Second.

15 CHAIRMAN BRANSTAD: Commissioner Reid Lyon
16 seconded. Discussion? Mr. Pasternack?

17 MR. PASTERNAK: Yes, Mr. Chairman. In
18 the last paragraph, Mr. Bartlett, you said that the
19 Commission believes that in many states the rate of
20 progress in meeting the LRE requirements is
21 unsatisfactory because they are requirements. Then
22 the word "inclusion" does not appear at all in the

23

1 IDEA. Should we say something about those states
2 should achieve higher levels of placing students in
3 the least restrictive environment than are currently
4 achieved, something like that? Are you all right
5 with that?

6 MR. SONTAG: Yes.

7 MR. PASTERNAK: That way the language is
8 consistent with LRE throughout.

9 CHAIRMAN BRANSTAD: Commissioner Hassel.

10 MR. HASSEL: Do we know what percentage of
11 students are placed in LRE? All we really know is
12 what percent are 80 percent or more regular
13 classroom.

14 MR. PASTERNAK: We have them by setting
15 and we have them by special school. We have several
16 in the 23d Annual Report, Commissioner Hassel, we
17 publish, setting data. So there are, the problem as
18 I stated earlier, is that we don't collect data which
19 says students in this setting get these kinds of
20 results. We don't correlate placement.

21 MR. BARTLETT: Would the Secretary yield?
22 Commissioner Hassel has made a valid point.

23

1 Theoretically, everybody gets LRE, because the least
2 restrictive environment the school can think of.
3 It's the rate of inclusion in the regular classroom
4 that many states are falling down in. And so I would
5 sort of stick with the word "inclusion" unless you
6 can think of a better one. But theoretically,
7 everybody gets LRE. It's whether LRE is in the
8 regular classroom or not.

9 MR. PASTERNAK: LRE is defined in the
10 regs and the statutes as the general education
11 setting. It's already in there. So the theory is
12 not theory. The LRE is defined as the general
13 education setting. I can find a site if you need it.

14 MR. BARTLETT: Mr. Secretary, I have your
15 chart, and the chart doesn't say LRE. It says
16 outside the regular classroom.

17 MR. PASTERNAK: That's the study data.
18 I'm talking about what's in the law. In the law it
19 says, to the maximum extent appropriate, children
20 with disabilities, including children in public and
21 private institutions or other care facilities, will
22 be educated with children who are not disabled and

23

1 removing children with disabilities from the regular
2 educational environment only occurs when the nature
3 or severity of the disability of the child is such
4 that education in regular classes with the use of
5 supplementary aids and services cannot be achieved
6 satisfactorily. That's the definition.

7 MR. BARTLETT: We perhaps should postpone
8 it and look at it in the morning. My point is,
9 Commissioner Hassel's point is, if it's not in the
10 regular classroom and it's only 28 percent in the
11 regular classroom, then we think they're missing it.
12 Even though the state may say it's LRE, we think it's
13 not.

14 MR. PASTERNAK: Right. Well,
15 Commissioner, Mr. Chairman, Commissioner Bartlett, I
16 think we're revisiting a discussion that we had
17 earlier. These are supposed to be individual
18 decisions. And while you and I may agree that the
19 aggregate data may not reflect the kinds of rates of
20 inclusions that kids with disabilities in general
21 education which you would like to see, we still have
22 to respect the fact that they're individual decisions
23

1 that acknowledge the wishes of the family and the
2 multi-disciplinary team that's making those
3 individual decisions.

4 So that's where we begin to get into the
5 delicate balance between least restrictive and most
6 appropriate, which has always been an interesting
7 balance in the law and in the regulations.

8 MR. BARTLETT: Mr. Chairman, perhaps we
9 ought to hold it over until the morning when we can
10 sleep on it a little bit.

11 CHAIRMAN BRANSTAD: Is that the desire of
12 the Commission members? Okay. We will do that. We
13 will recess until 9:00 a.m. unless anybody wants to
14 go earlier. Let's stay with nine. I would ask
15 everybody to be here promptly at nine. We'll just
16 keep cranking along. Thank you for your
17 participation, for your attention, and for your good
18 work today.

19 (Whereupon, at 6:15 p.m. on Thursday, June
20 13, 2002, the Fifth Meeting of the President's
21 Commission on Excellence in Special Education
22 recessed until 9:00 a.m. the following day.)