

STATE OF NEW MEXICO
LEGISLATIVE EDUCATION STUDY COMMITTEE

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MINUTES
LESC MEETING
JUNE 25-26, 2015

Representative Dennis J. Roch, Chair, called the meeting of the Legislative Education Study Committee (LESC) to order at 9:08 a.m., on Thursday, June 25, 2015, in the gymnasium, at the Raton High School in Raton, New Mexico.

The following voting members of the LESC were present:

Representatives Dennis J. Roch, Chair, Nora Espinoza, and Tomás E. Salazar; and Senators John M. Sapien, Vice Chair, and Craig W. Brandt.

The following voting members of the LESC were not present:

Representatives Sheryl M. Williams Stapleton, Christine Trujillo, and Monica Youngblood; and Senators Gay G. Kernan and Howie C. Morales.

The following advisory members of the LESC were present:

Representatives Alonzo Baldonado, D. Wonda Johnson, and G. Andrés Romero; and Senators Lee S. Cotter, Linda M. Lopez, John Pinto, William P. Soules, and Mimi Stewart.

The following advisory members of the LESC were not present:

Representatives Jim Dines, David M. Gallegos, Stephanie Garcia Richard, Jimmie C. Hall, Timothy D. Lewis, Patricia Roybal Caballero, James E. Smith, and James G. Townsend; and Senators Jacob R. Candelaria, Carlos R. Cisneros, Daniel A. Ivey-Soto, Michael Padilla, and Pat Woods.

The Chair recognized Raton City Commissioner Ms. Linde' Schuster, who welcomed the committee to Raton and informed them on a variety of activities occurring in the community.

Due to the lack of a quorum, the Chair informed the committee that the LESC agenda and the May draft minutes will be approved at the next meeting.

RURAL SCHOOL DISTRICT CHALLENGES

The Chair recognized Mr. Ted Kamp, President, Board of Education, and Dr. M. Neil Terhune, Superintendent, Raton Public Schools (RPS), to give the committee a presentation on challenges facing rural school districts.

Referring to slides in his presentation, Mr. Kamp showed images of the facilities owned by the district and noted that Columbian and Kearny elementary schools were now vacated since Raton's population is in a state of steady decline. He then gave the following demographic information regarding RPS, noting that:

- Raton has a population of approximately 5,500 residents;
- Raton's key industries are hospital, school, retail, tourism, and some agriculture;
- the community receives higher education support from New Mexico Highlands University and Luna Community College, and Trinidad State Junior College in Colorado, and;
- RPS has roughly 975 students ranging from preK to grade 12;
- RPS is approximately 80 percent Hispanic;
- 100 percent of the students are eligible for free and reduced-price lunch; and
- 15 percent of the students have special needs.

In regard to the largest and most immediate challenges that face RPS, Mr. Kamp stated that these challenges typically involve enrollment, facilities, and the budget. He displayed several charts to the committee, one of which showed a decline in enrollment from 1,426 students in school year 2005-2006 to 975 students in school year 2014-2015. Another chart showed a drop in teacher staffing during the same period from 98.56 to 78.16 full-time employees. Mr. Kamp concluded by commenting on the challenges of repurposing two vacated buildings and maintaining a budget with a cash balance that dwindled from a high of over 12 percent to less than 2.0 percent today.

Dr. Terhune continued the presentation, introducing himself to the committee as a fifth generation New Mexican who began his career as a high school dropout going into the Marine Corps. He then explained five goals for RPS:

1. become a highly effective Professional Learning Community (PLC);
2. transition to the New Mexico Common Core State Standards (CCSS);
3. graduate 90 percent of RPS students with a high degree of college, career, and citizenship standards;
4. achieve and maintain a safe and orderly school environment; and
5. communicate and ensure that all stakeholders are given adequate opportunities to participate in school district improvement initiatives.

Regarding the third goal to increase the graduation rate to 90 percent, Dr. Terhune discussed a number of objectives, which included:

- assigning principals who have a high level of commitment and expertise;
- unpacking the CCSS by May 2015;
- moving teachers from highly qualified to highly effective;
- providing effective learning environments;
- more club and athletic participation; and
- additional career and technical education curriculum.

Dr. Terhune also described Raton's current economy in terms of creating transformation in the district. He referred to a slide which gave a listing of Raton's target industries and markets, and noted that the current economic base, which includes agriculture, recreation, education, and government, is suitable for a number of new industries, such as aircraft maintenance, call centers, E-commerce, film, and renewable energy, among other industries.

He then briefed the committee on educational leadership challenges, notably:

- staff resistance to change;
- consistent leadership; and
- recruitment and staffing of highly qualified and highly effective teachers.

In terms of positive attributes for RPS, Dr. Terhune emphasized that teacher evaluations allow the teacher and school leader to collaborate on how to improve while maintaining a safe and orderly school environment; and he listed the following positive factors:

- leadership and governance;
- the PLC schedule, structure, and training;
- technology;
- consolidation;
- a new roof; and
- financial assistance from the state.

PUBLIC SCHOOL FUNDING FORMULA OVERVIEW

The Chair recognized Mr. Ian Kleats, LESC staff, for an overview of the New Mexico Public School Funding Formula (PSFF). Referring to his presentation slides, Mr. Kleats covered the following topics:

- background of the PSFF;
- basic information and goals of the PSFF;
- mechanics of the PSFF; and
- analysis of modifications to the PSFF.

Citing the interim workplan topics discussed by the committee at the May 2015 interim meeting of the LESC, Mr. Kleats highlighted the following topics that potentially involve modifications to the PSFF:

- Training and Experience (T&E) Index realignment;
- size adjustment units;
- enrollment growth units;
- at-risk units;
- variable calendar factors;
- special education weighting; and
- local/federal revenue deductions.

With respect to these potential modifications to the PSFF, Mr. Kleats suggested that most would increase the number of total units statewide. When modifications to the PSFF result in changes to total statewide units, Mr. Kleats explained, LESC staff attempt to analyze:

- how the unit value would be affected;
- how the State Equalization Guarantee (SEG) distribution to school districts and state-chartered charter schools will change;
- whether an appropriation to the SEG could offset negative changes; and
- ultimately, which school districts and state-chartered charter schools are winners, and which are losers as a result of the proposed modification.

Committee Discussion

After noting that the LESC has tried to simplify the PSFF after studying it for three years, a committee member stressed that the funding formula cannot be truly implemented until the state reaches sufficient funding levels, adding that some school budget experts suggest that a 10 percent overall increase would resolve all of the issues. In reply, Mr. Stan Rounds, Superintendent, Las Cruces Public Schools, indicated that public schools have been underfunded for 10-15 years.

INSTRUCTIONAL STAFF TRAINING AND EXPERIENCE INDEX OVERVIEW

The Chair recognized Mr. Kleats, LESC staff; and Mr. Stan Rounds, Superintendent, Las Cruces Public Schools (LCPS), for an overview of the Instructional Staff Training and Experience (T&E) Index.

Referring to the LESC staff report, Mr. Kleats began by providing a description of the T&E Index, including:

- the history behind its creation;
- the statutory and regulatory features of the T&E Index, such as:
 - the statutory T&E matrix and its factors;
 - types of personnel included in the calculation of the T&E Index; and
 - school district and charter school discretion in the salary schedules corresponding to cells in the T&E matrix; and
- its role as a multiplier for certain units in the public school funding formula.

Mr. Kleats also described the recent trends in the T&E Index for individual school districts relative to the long-term, 10-year averages, explaining that:

- the composition of statewide funding formula units attributable to the T&E Index has accounted for 8.0 percent to 12 percent of program cost;
- a 1.05 percent decline in the statewide average T&E Index compared to the long-term average;
- the large variations in the T&E Index, both negative and positive, were most common in small school districts; and
- large school districts have had mixed experiences, but changes were relatively small in magnitude.

Mr. Kleats referred to two studies from which the LESC had received recommendations for altering the T&E Index to align with the state's three-tiered licensure system from Augenblick, Palaich and Associates, Inc. in 2003 and the American Institutes for Research in 2008. Although Mr. Kleats suggested that the specific recommendations of those studies might be considered in more depth during a future LESC interim meeting, he explained that the recommendations may no longer be actionable due to the length of time since they were made.

With respect to economic considerations that the committee may wish to consider in moving toward policy options, Mr. Kleats highlighted:

- economic incentives for advancement between licensure levels; and
- efficiency wages.

Referring to a one-page overview of the T&E Index, Mr. Rounds noted that this is not an easy topic, stating that the Greer Formula, which preceded the 1974 Equalization Funding Formula, did not recognize the accelerating costs of teachers as they gained more experience and became better prepared through college education. According to Mr. Rounds, there was no reason to retain highly qualified and highly effective teachers, and over time, he explained that the inclusion of a factor to recognize those costs in a distributive process lead to the formula for T&E as it exists today.

Speaking from a district perspective, Mr. Rounds said that LCPS used to follow the Greer Formula and let go of teachers after 20 years, and when the three-tiered licensure system was implemented the district could not afford the \$40.0 million cost to align it, so this was never done. He also noted that the Legislature does not account for tier migration in its budget considerations, which cost LCPS \$2.52 million. He emphasized that it is bad policy to lose good teachers, and in general, better teachers get better pay and improve district performance, and the T&E Index exists to mitigate the disincentives caused by the Greer Formula.

As an example, Mr. Rounds explained that if a school district with 10,000 units (approximately 600 students) had a T&E Index of 1.06, then 10,600 units would be generated and the district would acquire 600 additional units, which still would not cover personnel costs. However, if the T&E Index the following year was 1.02, then the district would lose 400 units amounting to approximately \$1.6 million. The only advantage to help mitigate such a loss, Mr. Rounds noted, is the hold-harmless provision in law that permits a district to receive its prior funding for one year so it can determine how to recoup the loss. When he was working in the Hobbs district,

Mr. Rounds recalled that the district lost about 2,000 students when the oil bust occurred and the hold-harmless clause gave them lead time to plan. He asserted that this was good policy.

In conclusion, Mr. Rounds suggested to the committee that the issue they may wish to contemplate is several fold, noting that:

- the largest studies on the T&E Index structure should be reviewed;
- a viable solution will cost money;
- winners and losers are a reality for superintendents;
- without hold harmless, larger districts would require supplemental funding similar to the micro districts; and
- a \$1.0 million loss costs about 20 teachers and 10 educational assistants on the average in New Mexico, and 1.0 percent of the education budget is more than \$20.0 million.

Committee Discussion

A committee member commented that Los Lunas Schools had a budget increase of over \$600,000 due to the T&E Index and expressed hope that LESC conversation leads to efforts to retain quality teachers.

The Chair encouraged the members to look at what options exist and think outside the box regarding the T&E Index. He added that the LESC and Legislative Finance Committee are making this an interim priority.

Responding to a question from a committee member who inquired about challenges for rural districts, Mr. Kleats stated that:

- T&E Index changes for small instructional staffs create large fluctuations;
- attracting and retaining good teachers is more difficult in rural areas; and
- housing and transportation issues are common.

Regarding the funding formula, a committee member read a constituent's letter claiming that the formula does not equalize quality; and it is designed for large school districts rather than rural districts. Furthermore, the letter implied that small districts can qualify for additional funding to pay for long distance transportation, but small schools in large districts do not qualify for more support.

A committee member asked whether the teacher salary infrastructure should be based on retention or student achievement, and how both factors could be integrated into the infrastructure. In response, Mr. Rounds noted that the Early College High School in LCPS:

- requires all teacher applicants to be at least Level 2;
- shows that teaching is more than time in the chair and training;
- has a 100 percent graduation rate; and
- has no remedial students among its graduates.

VIRTUAL EDUCATION AND CYBER LEARNING

The Chair recognized Mr. Kevin Force and Mr. Ian Kleats, LESC staff, for an overview of LESC staff reports during the 2012 and 2013 interims, as well as reports from the 2014 LESC Charter Schools Subcommittee relating to virtual/cyber charter schools.

Referring to the staff report in the committee notebooks, Mr. Force reported that the July 2012 staff report on virtual charter schools focused on a number of issues fundamental to the consideration of virtual charter schools in the state, such as:

- definitions of virtual schools;
- day-to-day operations, including seat-time, field trips, and online assessments;
- potential student-populations served by virtual education; and
- costs associated with virtual schools.

The report also discussed a number of legal issues related to charter schools, such as:

- the definition of the term “school,” in New Mexico law;
- statutory prohibitions regarding potential parties to a contract for management of virtual schools; and
- class action lawsuits alleging securities violations against K12, Inc.

Mr. Force noted that during the discussion of the July 2012 staff presentations on virtual charter schools, one LESC member expressed concern that the memorandum of understanding between K12, Inc. and the New Mexico Virtual Academy (NMVA) may violate the prohibition, cited in the staff report and presentation, against a for-profit entity operating a charter school, an issue, Mr. Force noted, that would arise several times throughout the 2015 overview.

The July 2013 interim report included:

- a presentation on virtual charter schools by representatives of K12, Inc. and NMVA;
- committee discussion, which again focused on whether the relationship between K12, Inc. and NMVA rose to the level of “management,” thus running afoul of the prohibition on management of a charter school by a for-profit entity found in Section 22-8B-4(R); and
- other issues discussed by the committee, including:
 - the availability of Advanced Placement classes in virtual charter schools;
 - how state funding follows a student from his or her original school district to the virtual school;
 - verification of student work; and
 - the inclusion of virtual charter schools in the teacher and school leader evaluation program, particularly with regard to observation of teachers.

Reporting on the July 2014 meeting of the LESC Charter Schools Subcommittee, Mr. Force noted that it included:

- a presentation from Mr. Joseph Dworak, Assistant Attorney General, Civil Division, Attorney General’s Office, on AG Opinion No. 14-03, which among other issues, focused on a question that had arisen on several occasions throughout the committee’s work on virtual charter schools, that of whether the relationship between K12, Inc. and NMVA constituted prohibited “management” by a for-profit entity; and
- a presentation from Mr. Alex Medler, Vice President, Policy and Advocacy, National Association of Charter Schools Authorizers, focusing on:
 - emerging issues about full-time virtual learning in the states; and
 - guidelines for authorization of virtual charter schools.

According to AG Opinion No. 14-03, the contract between K12, Inc. and NMVA did constitute management under the provisions of the *Charter Schools Act*:

- the prohibition against for-profit management in charter schools was enacted to prevent the kind of association existing between K12, Inc. and NMVA, placing the academy in a position of dependency regarding issues of regular operation and control; and
- however, the Act failed to define “management” and, while making the issue less clear, the plain language of the statute indicates the legislative intent to prevent relationships such as this one where K12, Inc.’s contracted authority integrated them into nearly every aspect of school administration.

Mr. Force further noted that Ms. Deanna Payne, NMVA registrar, and Mr. Lawrence Palmer, Chair, NMVA Governing Council, submitted written statements for the record in response to AG Opinion No. 14-03.

Mr. Medler’s presentation regarding emerging issues with virtual education focused largely on the recommendations of the Illinois Charter School Commission Report on Virtual Schools, which indicated that:

- funding for full-time virtual schools should not exceed base funding of a school district, and should be based on successful course or program completion, rather than enrollment; and
- authorizers should be required to:
 - hold schools accountable for assessments and other appropriate measures;
 - require schools to establish legal criteria and processes for enrollment; and
 - require schools to demonstrate capacity to deliver services to students with special needs and English language learners (ELLs).

Mr. Medler continued with a review of good authorizing practices, noting that elements of authorization should remain consistent among both virtual and traditional schools, with consideration of the different issues and challenges associated with virtual schools.

In his review of the September 2014 meeting of the LESC Charter Schools Subcommittee, Mr. Force explained that the meeting included:

- a comparison of virtual school funding models, which suggested that virtual schools generate less program costs through the funding formula than traditional schools;
- a report on the operation of the New Mexico Connections Academy (NMCA); and
- a review of pertinent legislation, recommended by the subcommittee, and endorsed by the full committee, from the 2015 regular legislative session.

Mr. Kleats continued by indicating that both full-time virtual schools currently operating in New Mexico generated less funding per student membership (MEM) than both the statewide average and the average for charter schools, which apparently is a result of several factors, such as:

- values on the Training and Experience Index below the statewide average;
- lower special education rates than other charter schools or the statewide average; and
- below-average add-on units, such as size adjustment and enrollment.

Ms. Athena Trujillo, Principal, NMCA, delivered an overview of the school's operations, as well as a number of issues that might encourage families in New Mexico to consider NMCA as an educational option.

In closing, Mr. Force briefly reviewed legislation from the 2015 session pertinent to virtual education:

- HB 74, *Public Education Commission as Independent*, which did not pass; and
- SB 148aa, *Charter School Responsibilities*, which was enacted with an effective date of July 1, 2105 (Laws 2015, Ch. 108) and which defined the term, "management," which was an issue in many of the committee and subcommittee meetings regarding virtual education, as "authority over the hiring, termination and day-to-day direction of a school's employees or contractors, whether they are licensed or not."

Mr. Force noted that this newly enacted definition, effective July 1, 2015, renders the pertinent portion of AG Opinion No. 14-03 irrelevant, as that opinion was written explicitly in absence of such a definition.

The Chair recognized Ms. Jacquie Monclova, Principal, and Ms. Heidi Kenworthy, Program Manager, Rio Rancho Cyber Academy (RRCA) for a presentation on best practices for blended learning.

Ms. Monclova stated that, unlike fully online education, blended learning is, in part, student-directed by their control over their own learning pace via online delivery and, in part, teacher-led in a supervised brick-and-mortar location. She explained that total enrollment for school year 2014-2015 was 164 students, and that RRCA:

- is an accredited public middle and high school, serving grades 6-12, within the Rio Rancho school district; and
- requires attendance by middle school students on Mondays, Wednesdays, and Fridays, and high school students on Tuesdays and Thursdays.

Ms. Kenworthy then spoke about best practices at RRCA, noting that the program at the academy transfers to students' "ownership" of:

- "engagement," which focuses on issues such as motivation, both internal and external, and the manner in which a student's work will fit into their life plan;
- "progress," focusing on whether and why a student might not be on track for their own educational plan; and
- "achievement," encouraging students to focus on study strategies that work for them, while also prompting students to question their lack of mastery in certain areas.

She identified additional areas related to best practices more focused on parents and teachers, including:

- for parents:
 - review of weekly progress reports from Edgenuity, which includes access to a "parent portal" to track attendance and progress;
 - monitoring student progress while the student is working at home; and
 - meeting with teachers and students for credentialing conferences; and
- for teachers:
 - coaching and mentoring; and
 - remediation, which encourages:
 - achievement of 70 percent mastery on quizzes and tests before proceeding to the next lesson;
 - use of Response to Intervention (RtI) to help close gaps in skills, based on individual student needs;
 - conduct remediation for struggling students in small groups or in a one-on-one setting; and
 - documentation and use of assessment results.

Other issues discussed by Ms. Monclova and Ms. Kenworthy included:

- curriculum design;
- successes of blended learning programs;
- blended learning program features;
- quality assurance; and
- Rio Rancho Public Schools' use of online credit recovery and alternative courses.

The presentation concluded with a review of the school's successes, including:

- School Grade Report Cards, which, for school year 2011-2012 through school year 2013-2014, were 'B,' 'A,' and 'A';
- graduation rates, which for the class of 2014 was 91 percent for all students;
- end-of-course exams results; and

- PSAT achievement, which for school year 2014-2015 showed 52.9 percent of RRCA students on track for career- and college-readiness, compared with the national rate of 37.2 percent.

The Chair recognized Dr. Donna Hutchison, Vice President of State Relations, Connections Academy, for a discussion on purely online education at Connections schools. She focused on several policies related to:

- types of students:
 - while full-time online learning is not appropriate for every student, it should be an available option for all students;
 - approximately 35 percent of newly enrolled virtual students are not proficient in math, and approximately 30 percent are credit deficient;
 - virtual students tend to have high levels of mobility; and
 - to address these issues, Connections has responded by increasing family support, including daily support sessions, a family mentor program, and a new learning coach central website;
- academic performance:
 - reading and math proficiency reviews at Connections academies in South Carolina, Iowa, New Mexico, and Wyoming, indicate that performance levels were either better than or commensurate with state levels in all grade-levels for all four states; and
 - policy considerations with regard to academic performance include:
 - withdrawal from enrollment for students who regularly fail to participate in courses according to certain procedures established by a particular virtual school; and
 - conferring with parents, teachers, and school leaders to consider if online instruction is appropriate for a student if his or her academic achievement declines while receiving online instruction;
- state accountability frameworks:
 - standards-based assessment participation rates lower than 95 percent result in a full letter-grade reduction of the school's grade; and
 - in contrast, as a possible policy consideration, Dr. Hutchison referred to the Arizona system for school grades, that would allow for certain maximum attainable school grades, based on participation, so that 95 percent or higher would allow for an 'A' grade, 85 percent to 94 percent would allow for a maximum grade of 'B,' and so on;
- teacher certification and quality:
 - best practices for virtual instruction;
 - development of personalized learning plans;
 - instruction on understanding the appropriate occasion to intervene with a struggling student;

- using assessment results to guide instruction and monitor progress;
 - how to foster a virtual school community; and
 - as a policy consideration, require completion of an appropriate professional development course for online instruction (Texas); and
- school quality:
 - Connections accreditation by AdvancED, an umbrella organization for three regional accreditation organizations, with a score of 340 out of a possible 400, as compared with national average of 283; and
 - consideration of a statute that includes a separate section of the charter application and approval process specifically for virtual schools (Idaho).

The Chair recognized Ms. Tonette Salazar, Director of State Relations, Education Commission of the States (ECS), for a multi-state overview of online schools and course offerings.

After a brief review of ECS' functions and goals, Ms. Salazar emphasized the importance of clearly defined terms, particularly such fundamental terms as "full-time online," "supplemental online," and "blended learning." Regarding virtual school student populations, she indicated that such populations are composed of traditional students, ELLs, special needs students, former dropouts (for credit recovery), gifted and talented students, dually enrolled students, rural students and students seeking an alternative to traditional schools. Providers of online instruction include:

- state-funded entities, either nonprofit or for-profit education management organizations (EMOs);
- school districts;
- charter schools;
- higher education institutions; and
- other public and private options.

Ms. Salazar indicated that, nationwide:

- five states require an online course for high school graduation;
- 24 states explicitly define or permit online charter schools;
- full-time online charter schools operate in 30 states where all students have access to online instruction;
- 11 states have online course choice policies or programs, allowing for course options from one or more providers at a time;
- state virtual schools operate in 26 states and provide approximately 740,000 course offerings;
- no state has more than approximately 3.0 percent of their students attending fully online schools; and
- the virtual school landscape is still dominated by for-profit EMOs, operating about 40 percent of online schools with approximately 71 percent of all enrollments.

With regard to school performance, Ms. Salazar indicated that:

- online school academic performance on state math and writing assessments remain consistently lower than state averages and traditional school performance;
- online charter schools still fall behind district-operated schools in terms of performance ratings, with charters at 37.6 percent, and district schools at approximately 45 percent;
- independent online schools tend to receive “acceptable” ratings more than those operated by private EMOs; and
- while most states include online schools in their accountability systems, some include additional factors specific to virtual education.

Ms. Salazar noted that a number of states used different funding schemes:

- according to enrollment;
- by completion and performance; and
- by percentage of time spent in online instruction.

In addition, she said many states fund online schools 30 to 50 percent less than traditional schools, and indicated that the national average per pupil funding for online schools is \$6,400; yet the average for traditional schools is \$11,282.

In closing, Ms. Salazar spoke to the issue of teacher certification, explaining that:

- almost all states require online teachers to be state-certified;
- some states allow university faculty to teach online courses;
- Minnesota requires all teachers to be trained to deliver digital and blended content;
- six states have adopted voluntary online teaching endorsements; and
- less than 40 percent of online teachers report receiving any professional development before they began online teaching.

Committee Discussion

A committee member inquired about the status of students entering RRCA, as well as educational outcomes. Ms. Monclova answered that most entering students at RRCA are on track, but if a new student is three or four credits behind, attendance at an alternative high school is recommended.

A member noted that Rio Rancho Public Schools was the first in New Mexico to use the blended learning format, and emphasized the successful outcomes at RRCA.

In response to a question from a committee member on how teacher evaluations are conducted at virtual schools, Dr. Hutchison noted that, while she could not speak specifically to the situation at NMCA, in general, observations and walkthroughs are still utilized at Connections schools, but with a different model that promotes flexibility while maintaining accountability.

One member requested data on students who fail to achieve in a virtual school environment, including:

- how many return to traditional public school;
- how many opt for a different charter school;
- how many transfer to a new state;
- how many take the high school equivalency credential test; and
- how many drop out.

The Chair emphasized the need for good definitions of terms, particularly such fundamental terms as full- and part-time students, and requested information on teacher-to-student ratios in virtual and blended schools.

SUPERINTENDENTS AND COMMUNITY INPUT

The Chair recognized Mr. Jeff Carr, Commissioner, Public Education Commission (PEC), who stated that while attending a conference hosted by the National Association of Charter School Authorizers last year, he heard concerns in the charter school community that their reputation was being damaged by virtual charter schools, which generally have large percentages of dropouts and minimal reporting on what happens to them. In addition, he expressed concern that two more virtual charter school applicants were preparing to submit paperwork for PEC review by June 30, 2015.

The Chair then recognized Mr. Paul Jenkins, Board Member, Raton Chamber of Commerce, who asserted that online education should be used as an economic driver. He also alluded to the positive aspects of providing online education in rural areas that otherwise face a decline in population due to the lack of educational services.

There being no further business, the Chair with the consensus of the committee, recessed the LESC meeting at 4:12 p.m.

**MINUTES
LESC MEETING
JUNE 26, 2015**

Representative Dennis J. Roch, Chair, called the meeting of the Legislative Education Study Committee (LESC) to order at 8:11 a.m., on Friday, June 26, 2015, in the gymnasium, at the Raton High School in Raton, New Mexico.

The following voting members of the LES C were present:

Representatives Dennis J. Roch, Chair, Nora Espinoza, Tomás E. Salazar, and Monica Youngblood; and Senator Craig W. Brandt.

The following voting members of the LES C were not present:

Representatives Sheryl M. Williams Stapleton and Christine Trujillo; and Senators John M. Sapien, Vice Chair, Gay G. Kernan, and Howie C. Morales.

The following advisory members of the LES C were present:

Representatives Alonzo Baldonado and G. Andrés Romero; and Senators Lee S. Cotter, Linda M. Lopez, John Pinto, William P. Soules, and Mimi Stewart.

The following advisory members of the LES C were not present:

Representatives Jim Dines, David M. Gallegos, Stephanie Garcia Richard, Jimmie C. Hall, D. Wonda Johnson, Timothy D. Lewis, Patricia Roybal Caballero, James E. Smith, and James G. Townsend; and Senators Jacob R. Candelaria, Carlos R. Cisneros, Daniel A. Ivey-Soto, Michael Padilla, and Pat Woods.

Senator Cisco McSorley was also in attendance.

**TEACHER EFFECTIVENESS EVALUATION SYSTEM:
SECOND YEAR OF IMPLEMENTATION**

The Chair recognized Ms. Heidi Macdonald, LES C staff; and Mr. Matt Montaña, Director, Educator Quality Division, Public Education Department (PED), to present on the second year of implementation of the teacher Effectiveness Evaluation System (EES).

Referring to a staff report, Ms. Macdonald provided an overview which included the following information that is different for the second year of implementation:

- two pertinent provisions in PED rule that changed for school year 2014-2015 and succeeding years;
- PED's release of four resource videos explaining the calculation of certain elements of the EES, which include information on the following elements:

- observations;
 - teacher attendance;
 - student and parent surveys; and
 - student achievement;
- revised changes to the New Mexico Teacher Evaluation Advisory Council (NMTEACH) rubric, in which PED has added language to clarify that teachers should make accommodations for special subgroups of students;
 - an updated table of graduated considerations; and
 - an EES summative report example, which PED released to provide as an example of a report that a teacher would receive from the school year 2014-2015.

Ms. Macdonald did not discuss the second year EES data results, as the Chair indicated this would be discussed at a later meeting since districts are still making inquiries to PED and the department is in the process of reviewing the inquiries.

Mr. Montañó began his presentation by informing the committee that the NMTEACH year two summative report:

- provided enhanced information for teachers to better understand performance;
- provided information that will improve professional development plans; and
- established an objective standard of performance in which professionals can improve.

Mr. Montañó stated that he would provide a walkthrough of the school year 2014-2015 EES summative report in order for the members to gain a deeper understanding of the current evaluation system. He noted that the summative report has developed from a one page report last year into a five or six page report depending on how many data points a teacher has. To begin the walkthrough of the summative report on page 1 of PED's example, Mr. Montañó noted that the following identifiers were included:

- teacher name;
- teacher group according to student achievement data;
- level of the teacher's most recent grade-level assignment;
- New Mexico teaching license number;
- graduated consideration tag;
- school district; and
- school location.

Mr. Montañó explained that the teacher's overall score out of a possible 200 points is included on page 1 as well as the teacher's effectiveness level. The overall score includes student achievement, observations, and multiple measures chosen by each school district. The effectiveness level is the level corresponding to the range of the overall score. In addition, he noted that the effectiveness levels included the following ratings: exemplary, highly effective, effective, minimally effective, and ineffective.

Mr. Montaña identified the remaining items on page 1, including:

- a graph comparing a teacher's overall score to that of their peers' median scores in the district and the state;
- the comment box labeled "Next Steps" that can be used to record notes and goals discussed in the teacher evaluation conference, or the evaluator may choose to fill it out ahead of time (the comment box does not require any mandatory information); and
- the acknowledgement signature lines are provided to document that the summative evaluation report was provided to the teacher, and, by signing the document, it does not imply agreement by the teacher, nor waive the right to disagree with the contents of the report.

On page 2 of PED's summative report example, Mr. Montaña stated that the following were included:

- value-added scores (VAS) and course listing details, in which the table identifies VAS for each course a teacher taught over the last three years, however, it does not include the current year VAS (information on this table also helps to identify how a teacher is assigned to Group A, Group B, or Group C, and how graduated considerations have been applied to a teacher's evaluation calculation); and
- a graphical representation of the teacher's impact on student growth made with their students in a year's worth of achievement growth in a year's worth of time.

Mr. Montaña noted, for example, that if a teacher's VAS is less than zero, then this teacher's students made less than one year's growth in one year's time; if the VAS is equal to zero, then the teacher's students made one year's growth in one year's time; and if the VAS is greater than zero, then the teacher's students made more than one year's growth in one year's time.

On page 3 of the example, Mr. Montaña explained that a teacher's comparison graphs for Domain 1 through Domain 4 are included, these graphs illustrate how a teacher scored in each of the domains in comparison to teacher peers in their school, district, and the state. This information, according to Mr. Montaña, aids the teacher to better understand which areas they need to improve as well as identifying the areas in which they excel. Page 4 includes information on the multiple measures the school district has chosen, such as teacher attendance and/or parent and student surveys. Finally, on page 5 of the example is a glossary of terms, which is a quick guide to the terms referenced throughout the summative report.

Committee Discussion

A committee member inquired on ways to improve understanding of VAS. Mr. Montaña noted that PED has conducted numerous workshops statewide on the VAS 101, 201, and 301 for educators.

A committee member asked whether the parent surveys have been translated into any other languages. Mr. Montaña replied that PED's experts in the bilingual department translated the surveys into Spanish and were in the process of translating the surveys into Diné [Bizaad].

Regarding how teachers are assessed with scores which are not tied to a standards-based assessment, Mr. Montañó acknowledged that Group B and Group C teachers are assessed using measures selected by the district, such as:

- end-of-course exams;
- group measures tied to the school grade growth measure; or
- school-level or grade-level value-added models (VAM).

In reply to a committee member's question on how the revised rubric changes addressed special populations, Mr. Montañó noted that PED worked in collaboration with different stakeholders throughout the state to create language for the rubric that addressed culturally and linguistically diverse students. He said that PED created a crosswalk that was tied to the protocol and it was also tied to the special populations of students. The revised rubric will be used in school year 2015-2016.

Regarding what is required for teachers when using TeachScape, Mr. Montañó said the only requirement for teachers is they have to review the observation information and give feedback. There are also optional items teachers can use TeachScape for such as uploading artifacts or other documents for pre-observation conference, or they can use it to incorporate professional development plans.

SIMULATED TEACHER EVALUATION DIALOGUE

Senator Brandt, the acting Chair, recognized LESC Chairman Dennis J. Roch, Superintendent, Logan Municipal Schools (LMS), and Ms. Crystal Burns, fifth grade teacher, LMS, to conduct a simulated teacher evaluation summative report discussion. Ms. Burns noted that she has been teaching fifth grade at LMS for seven years and prior to that she was an educational assistant working specifically with special education.

Before Chairman Roch began the simulated discussion, he stated that the actual observation was conducted on April 7. Prior to the scheduled observation, Ms. Burns briefed Chairman Roch on the specific lesson he was going to observe. She said it was a science lesson that consisted of:

- a lab and PowerPoint presentation;
- an assessment;
- oral discussion; and
- prediction charts.

Chairman Roch indicated that his staff received professional training on what the rubric consisted of and on expectations based on the rubric at the beginning of the year. He then described the elements included in Domain 2 and Domain 3 of the New Mexico Teacher Evaluation Advisory Council rubric.

Ms. Burns explained the process for her observed science lesson, explaining that:

- each student was greeted with a handshake as they came into her classroom to assess the student's behavior as well as to handle any issues from the previous day;

- three to five students shared “good news” during morning announcements, giving the teacher and students the chance to celebrate the positive events happening in each other’s lives;
- research was conducted ahead of time to be properly prepared for the lesson;
- she provided students a copy of the PowerPoint presentation as her students are expected to do later in the year with their own PowerPoint presentation assignments;
- this particular cohort of students were visual learners and she provided examples that were useful to them in this regard;
- an assessment was given to the students to see if they had mastered the material from the lesson; and
- she included a special needs student in the kinesthetic movement of the lesson.

Based on Ms. Burns’ observed science lesson, Chairman Roch indicated her strengths included:

- the ability to take things she learned from training outside of the classroom, such as greeting students individually and sharing positive information, which she shared at a school board meeting and at faculty meetings at LMS to encourage her colleagues to learn the skills;
- encouraging her students to assist when necessary in established routines and procedures, which aids in not losing instructional time; and
- designing the classroom environment where her students were affirmed and could succeed.

The area that needed improvement for Ms. Burns involved her questioning strategies.

Chairman Roch indicated that per PED regulations, the conversation regarding observation feedback must occur within 10 days. He also noted that the following occurs after a scheduled observation:

- the notes taken during the observation are referred to and then the rubric elements are scored;
- the observer then works in collaboration with the observed teacher and additional evidence may be provided based on questions the observer has;
- rubric element scores may be modified as a result of the additional details;
- the results will be entered into TeachScape;
- the observed teacher will log into TeachScape and acknowledge that the teacher has seen the rubric scores and feedback; and
- the observer will confirm that the observed teacher has seen the information in TeachScape.

At the end of May, Chairman Roch said the teacher will have received his or her observation scores and the teacher’s school principal’s observation scores. At LMS, two administrators and the school district chose to conduct two observations for each teacher based on its evaluation plan.

In closing, Chairman Roch proceeded to discuss Ms. Burns’ Effectiveness Evaluation System summative report with her by describing a breakdown of the various elements and why she had the scores she received.

Committee Discussion

In reference to a committee member's inquiry on whether the teacher's summative report reflects scores of both certified observers, Chairman Roch indicated that the overall score is an average of all observations conducted. Overall, each school district has chosen either two or three observations. Typically, if a school has only one certified observer, then the certified observer will conduct three observations. However, there is also an option if the school district does not want to conduct three observations and only has one certified observer, then the certified observer can do one observation and invite an external observer in to conduct the second observation. The external certified observer may be from a neighboring district, and the only requirement is for the external observer to have passed the certification test.

A committee member questioned as to whether teachers were aware of the points they were going to be evaluated on and when such knowledge was obtained. Ms. Burns said that she was aware of the rubric elements since her district conducted professional development training at the beginning of the year to discuss the rubric, and that teachers were compelled to understand the rubric and its terminology as well as to review it before the scheduled observation. Chairman Roch indicated that he developed in-service professional development for his teachers. In doing so, LMS teachers watched calibration videos obtained from the administrator calibration training during staff meetings, and each teacher scored the teacher in the video based on the rubric. This allowed the teachers to internalize what an administrator is looking for during an observation as well as to become more familiar with the rubric.

Regarding the deconstruction of problem evaluations, Chairman Roch noted that in a future meeting the deconstruction of problem evaluations would likely occur because it is important to view the broad spectrum of all groups of teachers.

In reply to a committee member's question on how the rubric was formulated, Chairman Roch explained that the rubric was first designed from the Effective Teaching Task Force in 2011. The rubric is based on nationally researched models with New Mexico educator involvement. In addition, the rubric addresses how to manage special populations.

DIRECTOR'S REPORT

a. Approval of May 2015 LESC Minutes

Due to the lack of a quorum, the Chair informed the committee that the minutes will be approved at the next LESC meeting.

b. Administrative Rulemaking

The Chair recognized Mr. Kevin Force, LESC staff, who updated the committee on:

- an amendment to the rules regarding the Optional Full-Day Kindergarten Program [6.30.5 NMAC], from the May 29, 2015 issue of the *New Mexico Register*; and
- a Notice in the June 16, 2015 issue of the *New Mexico Register* of a proposed Public Education Department rule for the administration of the Bilingualism-Biliteracy Seal on New Mexico diplomas of excellence.

Administrative Rulemaking: Educational Retirement Board

The Chair recognized Mr. David Craig, LESC staff, to provide a summary of the staff brief on recent administrative rules changes related to the Educational Retirement Board (ERB). Mr. Craig indicated that the June 16, 2015 issue of the *New Mexico Register* contained new rules adopted by ERB relating to:

- administrative appeals;
- return-to-work, direct deposit, and tax matters;
- service credit;
- paper warrants;
- investments; and
- retirement reciprocity.

c. Informational Items

Ms. Frances Ramírez-Maestas, LESC staff, referred to the following items for the members' review included in the committee notebooks:

- an article entitled, "State Budget Quality Index," in the May 2015 issue of *State Policy Reports*;
- the first issue of the 2015 LESC Newsletter; and
- the Summary of Public Education-related Legislation Passed by the 52nd Legislature, 1st Special Session, 2015, *After Executive Action*.

To conclude, Ms. Ramírez-Maestas submitted a letter to the committee related to her upcoming retirement plans.

INSTRUCTIONAL MATERIALS POLICY OVERVIEW

The Chair recognized Mr. Ian Kleats, LESC staff; Mr. Stan Rounds, Superintendent, Las Cruces Public Schools (LCPS); Ms. Victoria Tafoya, Executive Director of Federal, Bilingual, and Native American Programs, Rio Rancho Public Schools (RRPS); and Ms. Elizabeth Jacome, Executive Director, Elementary Curriculum and Instruction, RRPS, to provide an overview of instructional materials policy.

Referring to a staff report, Mr. Kleats informed the committee that *Instructional Material Law* was selected as a topic of interest for the LESC workplan. He then briefed the committee on HB 146aa, *Instructional Material Definitions & Changes*, and its companion bill, SB 225, which would have amended the *Instructional Material Law* to:

- modify the definition of "instructional materials" to include electronic media content but to exclude electronic devices and hardware;
- remove restrictions on the percentage of instructional materials allocations that may be used for material not on the multiple list; and
- eliminate a provision requiring that textbooks be available for each student to take home.

While SB 225 did not proceed out from its first committee referral, Mr. Kleats said that HB 146 was amended twice before passing both houses and reaching the Governor's desk where it was vetoed. In the veto message, he noted that the Governor cited concerns that the bill's provisions could "jeopardize the quality of materials our children are provided in school and [eliminate] the guarantee that students will have regular and convenient access to those materials."

Mr. Kleats continued with a review of the provisions of current law which:

- require the Public Education Department (PED) to allocate to each school district, state institution, or private school no less than 90 percent of its estimated entitlement for the school year;
- allow a school district to expend at least 50 percent of their allocation to purchase instructional materials from the state-adopted multiple list;
- require accredited private schools to receive the same amount of per-pupil funding as public schools;
- allow any funds remaining at the end of the fiscal year to be retained by a school district and state institution for expenditure in subsequent years; and
- require PED to establish an instructional materials review process in rule to ensure that:
 - there is one annual adoption;
 - materials be adopted for a six-year period; and
 - the subject area at each annual adoption consist of those subject areas whose adoption period expires at the end of the year during which the adoption is conducted.

Regarding instructional materials appropriations and allocations, Mr. Kleats cited special (nonrecurring) appropriations to PED of:

- \$3.5 million for expenditure in FY 14 or FY 15 (*General Appropriations Act (GAA) of 2014*); and
- \$3.1 million for expenditure in FY 15 or FY 16 (*GAA of 2015*).

Finally, Mr. Kleats reviewed policy options by the LESC and Legislative Finance Committee to consider how HB 146aa can be changed in a way that addresses the Governor's concerns, while still maintaining the key provisions of the bill, such as:

- changing "textbook" to "instructional materials" so it includes digital material;
- have PED provide vetting of digital content; and
- sweeping and re-appropriating the Educational Technology Fund balance.

Mr. Rounds began his presentation by suggesting that LESC should consider who vets the materials. He explained that at LCPS, only 43 percent of instructional materials needs were funded by legislation, stating that due to the underfunding of instructional materials, the adoption cycle has been broken since 2008, and that the district has fallen short. He also noted that Kahn Academy has instructional materials available at no cost for mathematics and English language arts (ELA) and emphasized that all students should have 24/7 access to instructional materials, and that HB 146aa is a step in the right direction.

Ms. Tafoya and Ms. Jacome began their presentation to the committee by addressing the situation before Common Core State Standards (CCSS) and digital instructional materials were in the classroom. Ms. Tafoya explained that:

- publishers were challenged to provide curriculum that aligned to each state's standards;
- materials for review were mostly based on versions developed for larger states, such as Texas and California;
- instructional materials consisted of the traditional textbook; and
- education technology consisted of one classroom computer and an overhead projector.

Ms. Jacome continued by emphasizing the strategic use of technology and digital media with the CCSS. She provided examples of CCSS-ELA anchor standards to reiterate that there is no longer a need to memorize facts that are easily accessed through technology. Ms. Tafoya discussed the ways in which CCSS and the digital revolution impact instructional materials, noting that:

- many publishers are developing a variety of resources that are fully aligned to the CCSS and incorporate 21st Century skills;
- smaller publishers can now develop innovative resources that can be marketed to wider audiences; and
- high-quality, open educational resources (OER) offer opportunities for people everywhere to share, use, and reuse knowledge.

In closing, Ms. Jacome stated that the use of multiple lists included in the current instructional materials adoption process limits access to high-quality instructional materials from:

- smaller publishers;
- OER;
- primary sources; and
- emerging technology which supports academic standards.

Committee Discussion

The Chair commented that in 2015, with digital material usage on the rise, books may become a thing of the past and it is important to have materials aligned to the standards.

A committee member inquired about instructional materials utilized in art and music classes in public schools. In response, Mr. Rounds mentioned Makerspaces as a media resource.

A committee member expressed concern that a purely online materials model could compromise a student's ability to read a book at the university level. Mr. Rounds responded by stating that in institutions of higher education (IHEs), a freshman may study with instructional materials that will be out of date by the time he or she graduates.

A committee member expressed concern that there is limited continuity between high schools and IHEs setting students up to fail, stressing the importance of ensuring that our children are prepared to learn from a variety of materials. The Chair resolved to involve IHEs in the discussion on instructional materials.

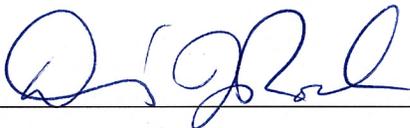
Another committee member discussed his plan to use digital sources extensively in classrooms and the ways in which he utilizes primary documents and printouts from the University of New Mexico's digitized historical databases for the US History courses he currently teaches.

SUPERINTENDENTS AND COMMUNITY INPUT

The Chair recognized Mr. Jeff Carr, Commissioner, Public Education Commission, to comment on teacher evaluation. He recalled that, the first time he received a minimally effective rating in his career, his observation score was outstanding and student test scores were fine. However, he lost points for reasons not readily apparent to him.

ADJOURNMENT

There being no further business, the Chair adjourned the LESC meeting at 2:52 p.m.



Chair



Date