

MINUTES
of the
NINETEENTH MEETING
of the
PUBLIC SCHOOL CAPITAL OUTLAY OVERSIGHT TASK FORCE

October 30-31, 2008
Room 307, State Capitol
Santa Fe

The nineteenth meeting of the Public School Capital Outlay Oversight Task Force (PSCOOTF) was called to order by Representative Rick Miera, co-chair, at approximately 10:20 a.m. on Thursday, October 30, 2008, in Room 307 of the State Capitol in Santa Fe.

Present

Rep. Rick Miera, Co-Chair
Sen. Cynthia Nava, Co-Chair
Cecilia Grimes
Leonard Haskie
Robbie Heyman (Oct. 30)
Dr. Anna Lamberson
Rep. Larry A. Larrañaga
Sen. Linda M. Lovejoy (Oct. 31)
Rep. Ben Lujan
Rep. James Roger Madalena
Kilino Marquez
Rep. W. Ken Martinez
Secretary Katherine B. Miller
Don Moya for Secretary Veronica Garcia
Bud Mulcock
Antonio Ortiz for Secretary Veronica Garcia
Mike Phipps
Rep. Henry Kiki Saavedra
Sen. John Arthur Smith
Ernesto Valdez

Absent

Sen. Vernon D. Asbill
Sen. Timothy Z. Jennings
Sen. Carroll H. Leavell
Elizabeth Marrufo
Dr. John Mondragon
Rep. W.C. "Dub" Williams

Advisory Member

Sen. Stuart Ingle

(Attendance dates are noted for those members not present for the entire meeting.)

Staff

Sharon Ball
Gary Carlson
Aldis Philipbar
Paula Tackett

Guests

The guest list is in the original meeting file.

Thursday, October 30

On a motion made by Senator Smith and seconded by Mr. Phipps, the September minutes of the PSCOOTF were unanimously approved.

Adequacy Standards Revisions and School Size

Bob Gorrell, director, Public School Facilities Authority (PSFA), reviewed the agenda and explained the adequacy standards. He said that because the delivery systems for education are always changing, the core requirements under the standards of excellence have often trapped the state in going in directions according to the way schools are evolving. The way education is being delivered is always changing. Mr. Gorrell said that districts generally lean toward larger spaces when given minimums and maximums for space. He added that utilization has been a common theme in PSCOOTF meetings. He said with 89 school districts and 800 schools in New Mexico, the Public School Capital Outlay Council (PSCOC) tries to be equitable while looking at all issues. Historically, he said, community and education were the same; in recent times, economies of scale have driven schools to become bigger and bigger. Although the current movement to create smaller learning environments attempts to address the issues related to students feeling a part of something within the school, Mr. Gorrell suggested identifying a maximum for the total size of a school rather than defining minimums and maximums for individual spaces. Thus, districts would have better control of the design and could better meet their needs.

Brad Winter, chief operations officer, Albuquerque Public Schools (APS), said that Winston Brooks, superintendent, APS, does not agree with most of what is in the small school report. He said that the city is lacking fields, community centers, etc., but APS is stepping up to fill that void. He said that smaller schools will not allow APS to do that. Mr. Winter said that parents want more fine arts facilities and pointed out that all APS schools have auditoriums, which also would not be possible with small schools. He also pointed out that APS students score higher on the ACT and SAT than the national average. He said that the goal is to create small learning communities within a large school.

V. Sue Cleveland, Ed.D., superintendent, Rio Rancho Public Schools (RRPS), said that smaller learning communities are semi-independent schools within Rio Rancho High School (RRHS). She said that each academy has 600 students with its own vice principal. All students have the same core classes with different career pathways based on the academy. However, she pointed out that students are not stuck in one academy. They can take elective classes in all academies. Dr. Cleveland said that RRHS does a "climate check" each year with parents and students. She added that a comparison was done between RRHS and a smaller school outside of Seattle that was considered to be a good school; it was found that performance at RRHS was the same. She said that Rio Rancho has some schools that are a little big, but that is the result of

growth. She also said that although the district needs to look at what the community wants, there is often a disconnect between what the community wants and what it is willing to pay for. She noted that it costs more to build four small schools than one large school and that there is an economy of scale with buying a large tract of land. She also pointed out that the high schools were the first thing Hewlett Packard executives wanted to see when they were considering a company move to Rio Rancho. She said that if New Mexico wants to have growth, it has to have competitive schools.

Mr. Gorrell asked Dr. Cleveland how virtual learning could be shared between RRHS and rural areas. Dr. Cleveland responded by saying that RRPS is a big proponent of cyber education. She said that the state has stepped forward with a cyber initiative. She said that cyber education can work for rural and urban areas and gave some examples of students involved in competitive sports who were able to go to school while traveling via cyber education. Dr. Cleveland added that cyber education has huge potential and can now be delivered to almost any school in the state.

Stan Rounds, superintendent, Las Cruces Public Schools (LCPS), said that his smallest school has 300 students and the new high school serves 2,200 students and is located on 100 acres at a cost of \$100 million. He said that if New Mexico continues on the "small school road", LCPS would need 13 more schools instead of one, plus infrastructure, counselors, teachers, administrators, playing fields, etc. Mr. Rounds said that LCPS would be looking at a 35 to 40 percent cost increase.

Fred Nathan, executive director, Think New Mexico, said that there is one new dropout every five minutes. New Mexico is forty-ninth in graduation rates with APS graduating 44 percent of its students. Mr. Nathan said that the dropouts from this class alone would cost taxpayers \$62 million in recurring costs (Medicare, incarceration, lost tax revenue, etc.). He said that many factors that relate to dropouts are out of the state's control, but the state can control the size of schools. Mr. Nathan cited a nationwide survey of dropouts conducted by Bill Gates. He said that 57 percent of those surveyed attributed violence in schools to their dropping out, and he pointed out that small schools have less violence. He said that 50 percent of those surveyed also attributed feelings of alienation to their dropping out, and he pointed out that there are more opportunities in small schools to participate in extracurricular activities. He also added that smaller schools have higher graduation rates and cited schools in New Mexico with student populations between 500-1,000 with the highest graduation rates. He said that low-income students benefit most from small schools because they receive more individual attention. Mr. Nathan said that Think New Mexico is proposing the following limits on school size: 225 students per grade in high schools, 120 students per grade in middle schools and 60 students per grade in elementary schools. He also encouraged large schools to move to smaller learning communities through funding. He pointed out that the annual operations cost per high school student was lowest for schools with 500-999 students. The operations cost per student goes up with size due to heightened security, middle administrators, etc. He posited the question of whether the state is building big schools because of the needs of children or the needs of adults.

Mike May, PTA member, Amy Biehl Charter School, and several other members of the public gave testimony advocating for smaller schools.

In response to a question from the task force about the economic life of a school, the panel said that a school needs renovating after 30 years, but that the structure should last 100 years. It was stated that classroom size is the most important factor, regardless of the size of the school, and that it is incumbent upon the legislature to impose a solution to this problem. It was also stated that the first three years of school set the tone for later on and that perhaps the initial focus should be on the first three years instead of trying to change everything at once. It was also pointed out that small schools work well for some students, while others like what a large school has to offer.

Charter Schools Facilities Issues

Application Time Lines and Facility Requirements

Lease Reimbursements

Ms. Ball, researcher, Legislative Council Service (LCS), introduced the panel and said that she would be available to answer questions from the task force. Don Duran, Ed.D., assistant secretary, Charter Schools Division (CSD), Public Education Department (PED), discussed the charter school application process. He said that under the current law, a charter school must have a letter of intent submitted by January 1. A charter school founder must let the CSD know that the founder is interested. He said that the CSD goes over the application monthly with potential charters and that there is no funding from January 1 through July 1, when the application is due. The local authority then has 60 days to approve or deny the application. If approved, the charter has until July 1 of the following year to plan in order to open for that school year.

Bill Sprick, facilities master planning manager, PSFA, said that the PSFA pushed for education specifics because they are necessary for a successful school. He said that charters really need 16 to 18 months to hire and work with an architect and select a facility. He said that the PSFA wants to know what it is approving when the charter is approved. Mr. Gorrell added that the law requires a business plan (education specs) and any anticipated needs from the state for charter school approval. In response to a question from the task force about whether the statute or the application needs to be changed, Ms. Tackett, director, LCS, said that the task force would probably have to go back to the statute, but that staff should work with the PED to see what is actually needed.

Lease-Purchase Agreements

Lisa Grover, Ph.D., executive director, New Mexico Coalition of Public Charter Schools (NMCPCS), said that who hires the architect depends on the path the charter plans to take. Patricia Matthews, Esq., legal counsel, NMCPCS, said that the law is clear when it comes to lease-with-option-to-purchase agreements; the option to purchase goes away if no funding is available. It does not become the obligation of the district or the state. She said that it is the founder who takes the risk.

Mr. Duran clarified that if a charter's application is approved, the charter is valid for five years. The charter does not have to open in 10 months; the 10-month time line only applies to those charters that are ready, and they must be ready 30 days prior to the scheduled opening. If the charter is not ready, then it must wait until the following school year to open.

Dr. Grover said that charters have lots of oversight and regulations to ensure the safety of students.

Tim Berry, deputy director, PSFA, discussed the history of PSCOC awards and PSCOC awards to charter schools. He said that charters have been awarded \$7,093,075 for the 2008-2009 school year and that charters are at \$719.60/MEM for the 2008-2009 school year.

Ms. Ball said that approximately 19 charter schools are in public facilities in some form, whether it be the land the school is located on or the actual building. In response to a question about what is included in the MEM, Ms. Ball said that the charter receives up to \$719.60 per student for the lease. Mr. Berry added that part of the application asks the charter to reduce utilities and maintenance costs from the lease. In response to a question about square footage, they said that the law only allows for administration space and classroom space to adequacy. Mr. Berry said that the PSCOC reimburses about 63 percent and that there is a big variation between square footage per MEM. He said that the average is 125 sq. ft./MEM.

Funding Sources and Deadlines for Charter School Facilities Incentives to Support Charter School Facility Funding

Dr. Grover said that New Mexico is one of 40 states with charter legislation. She said that 67 charter schools serve 11,700 students and that there are over 2,000 students on waiting lists to enroll in public charter schools. She added that the graduation rate is 91 percent (based on senior year only). She said that the lease assistance program is currently funded at \$7.5 million, or \$700/student, and is utilized by 75 public schools, 65 of which are charter schools. She added that in the 2008-09 school year, of the \$7,134,850 given in lease assistance, approximately \$1,557,624 was funneled back into the public domain through charter leases with districts, counties, tribes and the federal government. Dr. Grover also noted that a charter must demonstrate that it is offering a different academic approach than what is currently being offered.

Jeremy Turner, chief financial advisor, New Mexico Finance Authority (NMFA), said that charters do not have the ability to issue general obligation bonds. Ms. Matthews requested a change in the statute to require districts to put charters on a mill levy. Ms. Ball said that language in the Charter Schools Act is evidently not clear enough. She said that some districts voluntarily give charters SB 9 money, but the majority do not. Dr. Grover said that the coalition would welcome legislation to strengthen the ability to get charters into public facilities. Mr. Turner added that part of the loan agreement requires full operation and maintenance. He said that the NMFA would not want the building to last for only the 20 years for which the loan is issued. The NMFA wants the state to have a decent asset. Ms. Ball said that HB 33 requires money to be shared with charters, but SB 9 is not as clear and APS does not share those funds with individual schools. She added that no one has taken the issue to court, so there is no case

law. Ms. Matthews asked that the 20-year lease-purchase limitation be extended to 30 years to make it easier for charters to make their lease payments. She also asked that the 2010 deadline for charters to be in facilities be extended. Dr. Grover added that she would like it to be extended to 2015 or 2020 and that there are charter schools that would like to purchase the facilities they currently occupy.

Friday, October 31

The PSCOOTF meeting was called to order at 9:15 a.m. by Representative Miera.

Addressing Roadblocks and Impediments Affecting Implementation of the Public School Capital Outlay Standards-Based Process

Mr. Gorrell said that one thing the PSFA is looking at for the future is severance tax dollars. He said that the PSCOC has the authority to double the state match for SB 9 funds, and he pointed out that there is a five percent cap on PSFA operational funds in the law. Ms. Tackett added that the original thought was that as PSCOC projects were completed, there would be a reduction in staff, but, she noted that if staff reduction is due to a lack of funding, that creates a different problem. Mr. Gorrell said that the PSCOC has taken on a strategy where capital money is not awarded until the district can show it is ready. In response to a question about why some schools receive larger awards than others, Ms. Tackett explained that first the PSCOC determines what projects will be funded based on rankings in the list. Then staff and the district work to clarify what the project needs to be, and the PSCOC applies the equalization formula that adjusts what the state and local match will be based on valuation. She also said that the PSCOC can grant waivers only in certain cases. In response to a question about "recalcitrant" districts, Ms. Tackett said that if a district fails to pass a bond twice in succession, the PSCOC could take the district to court, and the court could impose an appropriate levy.

Mr. Gorrell discussed the roof initiative funded by the legislature for expenditure in fiscal years 2006 and 2007. He said that the PSCOC ranked schools based on the need for a new roof. He said it was very helpful, but also noted that heating, ventilation and air conditioning (HVAC) systems are important as well. Gene Bieker, Clovis Public Schools, added that if the PSCOC is going to replace roofs, HVAC systems need to be replaced as well. He said that it does not make any sense to replace a roof and then puncture it to put a 30-year-old HVAC system on top of it.

Mr. Gorrell also raised the need for certification programs for maintenance staff, but he noted that the Construction Industries Division (CID) of the Regulation and Licensing Department has concerns with that. He said that it is illegal for maintenance staff to repair roofs, electric lines, etc., without certification. He asked the task force to look at a legislative change. He also noted that good maintenance is not being rewarded. Mr. Gorrell then discussed SB 9 expenditures for maintenance and preventative maintenance equipment. In response to a suggestion that the school share equipment with local municipalities, Mr. Gorrell said that joint use of district and community spaces could maximize utilization and minimize operational costs.

Mr. Haskie, public member, PSCOOTF, discussed some of the barriers his school district is facing. He said that the new high school is located out in the boondocks. He said that there is a lack of infrastructure; builders had to run the electric line 18 miles and the water line 22 miles to reach the new school. He also added that there is no place in the community for government officials to meet. Mr. Gorrell said that the schools are taking on more, but that there is a lack of long-range planning and coordination with the community to get things done.

Mr. Gorrell then discussed keeping the price of school projects down. He said that subcontractor bonding decreases competition. He said that the five percent residential preference and a lack of access to public works projects decrease competition. He also said that a number of districts have used cooperative educational services for procurement, which the districts feel cuts down on competition.

Mr. Gorrell also discussed the Geographic Information System (GIS) that could be used to maximize facility utilization and the availability of operational funds for non-facility use. GIS could also determine where declining populations are going and determine where increasing populations come from. The system could also provide demographic information for public bodies to use jointly in long-range planning.

Discussion of Potential Task Force-Endorsed 2009 Legislation

Ms. Ball said that the purpose of this agenda item is for task force members to discuss issues that would require drafting of legislation for task force continued consideration and/or approval at the next meeting. She and Ms. Tackett reviewed possible legislation topics, including:

- lease-purchase issues: cleanup and deadlines;
- SB 9: clarify uses appropriate for state funds as opposed to local funds and require districts to share SB 9 funds;
- charter school issues;
- distance education and online courses;
- subcontractor bonding;
- joint use issues: ways in which joint use can be recognized considering the fact that rural schools often provide infrastructure for the community and ways in which this use can be facilitated;
- energy efficiency: HVAC issues and roof initiative;
- maintenance;
- GB 98 Residential and GB 98 Commercial; and
- insurance.

Frances Maestas, director, Legislative Education Study Committee, said that New Mexico is recognized as one of the top states in education policy implementation, mostly due to IDEAL New Mexico, which was only funded for one year. She noted that some schools in other states are 100 percent virtual.

There being no further business, the task force adjourned at noon.

