

**MEETING MINUTES
PUBLIC CHARTER SCHOOL COMMISSION
SPECIAL MEETING**

September 5, 2014
304 N 8th Street, Boise, ID, Room 242
Office of the Public Charter School Commission - Conference Room

Meeting Called to Order by Chairman Reed at 11:30 a.m. The following Commissioners attended by phone or in person:

Alan Reed	Phone	<input checked="" type="checkbox"/>	Person	<input type="checkbox"/>	Not present	<input type="checkbox"/>
Gayle O'Donahue	Phone	<input checked="" type="checkbox"/>	Person	<input type="checkbox"/>	Not present	<input type="checkbox"/>
Nick Hallett	Phone	<input checked="" type="checkbox"/>	Person	<input type="checkbox"/>	Not present	<input type="checkbox"/>
Brian Scigliano	Phone	<input type="checkbox"/>	Person	<input checked="" type="checkbox"/>	Not present	<input type="checkbox"/>
Wanda Quinn	Phone	<input checked="" type="checkbox"/>	Person	<input type="checkbox"/>	Not present	<input type="checkbox"/>
Esther Van Wart	Phone	<input checked="" type="checkbox"/>	Person	<input type="checkbox"/>	Not present	<input type="checkbox"/>
Gayann DeMordaunt	Phone	<input checked="" type="checkbox"/>	Person	<input type="checkbox"/>	Not present	<input type="checkbox"/>

1. Commission Discussion: Consideration of Hearing Officer's Schedule of Review

Chairman Reed advised that only the Commissioners and PCSC staff, as requested by the Commission, would be making oral address during the call; all the all others were invited to listen.

M/S (O'Donahue/Van Wart): To approve the agenda as presented.

A roll call vote was taken.

The motion passed unanimously.

Chairman Reed explained that reason for the meeting was that Odyssey's counsel felt the use of executive session by the Commission on September 2, 2014 was inappropriate, and that Odyssey intended to seek a stay of PCSC action regarding Odyssey's charter on such grounds. Chairman Reed said the September 2, 2014 meeting was appropriate and legal, but he felt it was in the best interest of Odyssey's students to avoid the delay that would be caused by a stay. Therefore, the PCSC is meeting today to again take up the matter originally considered on September 2.

Chairman Reed invited discussion regarding the hearing officer's schedule of review.

Commissioner Scigliano made a motion in several parts and included the following explanation:

First, the Hearing Officer was mistaken about the agency who appointed her and who will review her decision. She was appointed by the Idaho Public Charter School Commission pursuant to Idaho Code § 33-5209C(7) and it is this Commission that reviews her decision, not the State Board of Education. Appeals of our decision go to the State Board of Education, see § 67-5209C(8), but it is this Commission, not the State Board, that reviews the Hearing Officer and makes the final decision under § 33-5209C(7).

Second, the Idaho Public Charter School Commission's decision-making in and following

hearings is not generally subject to the contested case procedures of the Idaho Administrative Procedures Act, Idaho Code § 67-5240 and the following sections. The Public Charter School Act of 1998 does not use contested case terms like “order” to describe determinations under the Act and uses other terms like “decision” to describe this Commission’s ultimate determinations under the Act. The Public Charter School Act’s limited references to the Administrative Procedure Act are solely for establishing procedures for conducting a hearing, not for establishing procedures for reviewing Hearing Officer’s decisions. This Commission has not adopted the Attorney General’s Rule of Procedure under the Administrative Procedure Act because review of its hearings and decisions are not governed by the Administrative Procedure Act. See Idaho Administrative Code 08.03.01, Rules of the Public Charter School Commission.

M/S (Scigliano/Van Wart): To rescind the Hearing Officer’s Schedule of Review of Recommended Order and direct staff to issue a Rescission of Hearing Officer’s Schedule of Review of Recommended Order. Additionally, to retitle the Hearing Officer’s Findings of Fact, Conclusions of Law and Recommended Order as Findings of Fact and Conclusions of Law. Finally, to adopt the following procedure for review of the Hearing Officer’s Findings of Fact and Conclusions of Law: Due to an exigency that requires a rapid decision on this matter to prevent children attending an unaccredited school whose charter could be revoked, the Commission will consider the Hearing Officer’s Findings of Fact and Conclusions of Law on Wednesday, September 10, 2014, at 12:30 p.m. MDT. At that meeting, we will hear oral arguments of counsel. The Commission will allow twenty minutes of argument per side.

Commissioner Quinn inquired whether, in his explanation, Commissioner Scigliano intended to refer to the “first decision” rather than the “final decision” under § 33-5209C(7).

Commissioner Scigliano verified that “first” was the correct word.

A roll call vote was taken.

The motion passed unanimously.

M/S (Van Wart/Quinn): To adjourn the meeting. *The motion passed unanimously.*

The meeting adjourned at 11:42 am.