

U.S. DEPARTMENT OF EDUCATION

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OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

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NATIONAL ADVISORY COUNCIL ON INDIAN EDUCATION

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PUBLIC MEETING

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FRIDAY  
DECEMBER 18, 2020

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The National Advisory Council on Indian Education met via Videoconference, at 2:00 p.m. EDT, Dr. Deborah Jackson-Dennison, Chairperson, presiding.

MEMBERS PRESENT

- DEBORAH JACKSON-DENNISON, NACIE Chairperson
- MANDY SMOKER BROADDUS
- DOREEN BROWN
- ROBIN BUTTERFIELD
- THERESA AREVGAQ JOHN
- AARON PAYMENT
- JOELY PROUDFIT
- VIRGINIA THOMAS
- PATRICIA WHITEFOOT
- PHYLISS ANDERSON

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ALSO PRESENT

ANGELA HERNANDEZ-MARSHALL, Designated Federal Officer, Discretionary Grants Program Officer and Contra Office of

Indian Education, U.S. Department of Education

JULIAN GUERRERO, JR., Director, Office of Indian Education, U.S. Department of Education

RON LESSARD, Acting Executive Director, White House Initiative on American Indian and Alaska Native Education

MICHELE MATTESON, Contractor, Tribal Tech, LLC., Project Support

PHILLIP ROULAIN, Contractor, Tribal Tech, LLC., Meeting and Logistics

RUTH RYDER, Deputy Assistant Secretary for Formula Grants, Office of Elementary and Secondary Education, U.S. Department of Education

DONNA SABIS-BURNS, Alternate Designated Officer, Supervisory Program Officer, Discretionary Group Leader, Office of

Indian Education, U.S. Department of Education

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

2:04 p.m.

DR. DENNISON: Good afternoon, everyone. I want to say welcome to our long-awaited meeting that we've been wanting to have.

It's a little after 2:00 East Coast and it's a little after noon here where I'm at. Alaska, I'm not sure what time it is there and Hawaii, I guess we have people in Hawaii, too. I know we're all over the place, but I just wanted to say welcome to our meeting.

We do have our quorum, I believe, so I guess we'll go ahead and call the meeting to order through roll call. But before we do that, I was thinking of starting the meeting with a prayer. I'm just going to call on Virginia to do it this time because she knows my heart. I was going to say the prayer myself because I know I've been personally struggling these last few days with the illness of the COVID that's really impacted across many, many people, my family included. Today is my first day out of

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quarantine, so I made it, but some have not been so lucky. So I just wanted to share that with you all.

It hits all of us, and as careful as we've been, my husband and I both tested positive and it wasn't good. It hasn't been good. My husband is still in the hospital right now and he's struggling. I don't want to get emotional, but I just shared that with Virginia and with Julian, so I'll just share that with you just so you know that my heart is in that tenderness place right now. I've been careful and thankful for all the help from my family, my relatives and everyone that's been with us along the way.

I did talk to Virginia earlier, so I'm just going to call on her to go ahead and start us out with a prayer, not just for me, but for everyone. Our families that are out there, our children that are out there. I know we're still on distance learning in San Carlos and they're suffering. They're suffering the emotional part of this. It's really, really hard. I just want

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to include that when you say your prayer,  
Virginia. So I'll turn it over to you, Virginia.

Thank you.

DR. PAYMENT: Can you hear us,  
Virginia? You're not muted.

MS. THOMAS: Can you hear me?

DR. DENNISON: Now we can.

DR. PAYMENT: Yes.

MS. THOMAS: Can you hear me now?

DR. DENNISON: Yes.

DR. PAYMENT: Yes.

MS. THOMAS: Good, thank you. Please  
keep your hearts open and let the Lord reach down  
into our hearts. Lord Jesus, I thank You, God,  
today. I thank You for what You've done for us  
in allowing us to gather together like this.  
Father, I thank You for all that You've done for  
us and what You plan to do for us. I ask that  
You put Your arms around us, just surround us  
with Your love and Your protection. Lord, I  
thank You, but please keep us strong and keep us  
dedicated and keep this council in Your loving

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arms. Let us deal with things that we have to deal with every day, and let us act upon the hopes of our people.

Lord, I ask that You put all of our people, our families, put them in -- we want them to stay strong. We ask that You keep them safe.

Lord, I ask that You put Your hands upon those who are suffering right now, those who are in need, those who need comfort, the families that can't be there, who are in the hospital. Lord, I thank You for all these helpers, all these front-line people that are out there risking their own lives for ours. Lord, I thank You for them.

I know what is happening we may not understand when we use it for your name, Lord. I ask that you let us feel Your love pour over us, just fill us with love overflowing and knowing that You are in control. You have everything that we need, so we just need to lean on you, allow you to use us for Thy work. Thank You for all that You've done, and I believe that what is happening that You could use us. Lord, I ask You

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that You use as your disciples to our people.

Everyone here today is in a leadership role and they're looking to us on how we control things and how we may act and how we treat each other. Lord, as I ask that You put in our hearts how You want us to be and let us be the example.

Lord, I ask it all in Your name. Bless those that are among us today on this call. Bless the staff of the department who are helping us with this call. Lord, I thank You. I give You all the praise. In Jesus' name, amen.

(Chorus of amens).

DR. DENNISON: Thank you, Virginia. Thank you very much. We'll go on to the agenda and do the roll call. I guess we'll do the roll call. Julian, you want to do the roll call?

MR. GUERRERO: Sure, I'd be happy to. Roll call for attendance. Dr. Deborah Dennison?

DR. DENNISON: I'm here.

MR. GUERRERO: Phyllis Anderson?

MS. ANDERSON: Here.

MR. GUERRERO: Dr. Theresa John?

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DR. JOHN: Here.

MR. GUERRERO: Mandy Smoker Broaddus?

MS. SMOKER BROADDUS: Here.

MR. GUERRERO: Doreen Brown?

MS. BROWN: Here.

MR. GUERRERO: Robin Butterfield? Robin  
Butterfield?

(No audible response).

MR. GUERRERO: Dr. Aaron Payment?

DR. PAYMENT: Here.

MR. GUERRERO: Dr. Joely Proudfit?

DR. PROUDFIT: Here.

MR. GUERRERO: Virginia Thomas?

MS. THOMAS: I'm here.

MR. GUERRERO: And Patricia Whitefoot?

MS. WHITEFOOT: Present.

MR. GUERRERO: Chairperson Dennison, we  
have nine present.

DR. DENNISON: Thank you, Julian.  
We'll go ahead and go down to the introduction of  
the US Department of Education personnel.

MR. GUERRERO: Yeah, wonderful. For

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those who are not familiar, I just wanted to introduce myself and colleagues. My name is Julian Guerrero, Jr. for the record, and I serve as the Director of the Office of Indian Education. It is a pleasure to join you virtually and be connected. I appreciate the words of Dr. Dennison and for the blessing of Virginia.

I give this time for any Department of Education colleagues who are currently on the line, and I'll start by kicking it off to our DFO.

MS. HERNANDEZ-MARSHALL: Thank you, Julian. This is Angela Hernandez, Designated Federal Official for the NACIE council. I just want to say thank you again everybody for making it today.

MS. SABIS-BURNS: This is Donna Sabis-Burns. I am the alternate DFO and I'm happy to be here, and thanks for making it today.

MR. LESSARD: Hi, this is Ron Lessard and thank you for joining us today. Our prayers

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are with you, Dr. Dennison and everyone in Indian Country experiencing this as well. Thank you and look forward to talking to you today. Thank you.

DR. DENNISON: Thank you.

MR. GUERRERO: I think that is it. I do see Ruth. Ruth, would you like to give an introduction? Looks like she might be busy, so we'll come back around.

DR. DENNISON: Thank you. Does anybody at NACIE want to do introductions? We all know each other. For the sake of time we might want to go on, but I think we have everyone here. We have the full council here with the exception of Robin, but she may be joining us, I'm sure, along the way.

DR. PAYMENT: I think we're good. I want to say that I saw Patsy all over the news the other day. You look good, Patsy.

DR. DENNISON: Awesome.

MS. WHITEFOOT: Thank you, Aaron. I heard about it --

DR. PAYMENT: In your traditional garb,

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so you should be proud.

MS. WHITEFOOT: Thank you very much.

DR. DENNISON: That's awesome.

MS. WHITEFOOT: I'll text.

DR. DENNISON: Thank you, Patsy. We can go ahead and go on to the first action item, Julian, if you want to introduce that?

MR. GUERRERO: Yes, absolutely. Actually I'd give it over to the committee chairperson, Patricia Lightfoot, to introduce. Patsy, if you need to add anything else, feel free to let me know what you'd like me to elaborate on.

MS. WHITEFOOT: I was able to text Robin, just so you're aware. Hopefully she'll come on. She may have just gotten busy. I just want to begin by just saying that I missed a little of the beginning but I just think that the work that the committee did, as well, had that in mind, so I just want to acknowledge that today. Also, because we all did some research about the work we were doing in the auditing, some of the

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Tribal issues we were faced with, wanted to give that context, as well.

I'll begin by saying just out of respect for our unified vision and the voices of our ancestors that we continue to carry, I am pleased to follow the legacy of the tribal leadership in fulfilling our oath to serve on the National Advisory Council on Indian Education with the US Department of Education and in collaboration with the Department of the Interior.

I believe that the oath that we took, and we all have undertaken that, understanding the seriousness of this oath toward the education of our children, grandchildren and future generations in order to improve the lives of Indian Country as a whole. And it's not just the work that we do here, but it's for the future, as well. I also acknowledge my fellow educators on NACIE, as well as our annual report to Congress subcommittee members.

They include the Honorable Aaron

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Payment, the Chairman of his tribe, the esteemed Dr. Theresa John, Dr. Deborah Dennison, Mandy Smoker Broaddus, Robin Butterfield, Virginia Thomas and myself. In doing the work of the report made a point to go back and take a look at the history of the NACIE reports. They got certification and so you'll see in the report, I don't have that page right in front of me, I'll locate it.

Good morning, Robin. I'm glad you made it. Thank you.

MS. BUTTERFIELD: I'm sorry I was late. For some reason I was having trouble getting on.

MS. WHITEFOOT: I'm experiencing the same thing. I was cut out for a while, so I'll have to pick up. I just wanted to highlight some aspects of the report that we did. You'll see it was further clarified, and I think over the years we've been doing that. There are several of us who have worked on the committee since we began on NACIE. I think we've worked on it annually, so it's always important but we come together and

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have a dialogue with one another.

I think that the report from Aaron and the revisions that he made are important. I just want to highlight, we learned what the four goals are, of course, to advise the Secretary of Education and Interior in the administration policies and practices of the programs and we've continued to do that. Also (audio interference) with the Office of Indian Education. That's checked off. That's done we did that and of course had a committee.

We're going to submit this report to Congress with the recommendations, and in our case we've added rationales and findings. We advised the White House initiative on American Indian and Alaska Native Education. I just want to say that during the past few months, of course, some of us have been busy with the transition plans for the incoming president. So there is work that is going on in Indian Country and I've shared that here in the states, as well as amongst colleagues as well about that

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Presidential plan.

Now we're working with Secretary DeVos and Secretary Bernhardt. We still have work to go on. It just continues, and that's the work that we do. You'll see it's highlighted the four areas that we cover, of course, are to honor tribal sovereignty in the current -- you'll find that in our table of contents.

The second is the request for the state funding for Native education, and the third is to improve lifelong and comprehensive education. Finally, four, building sustained government to government relations with tribal nations. So take a look at the annual report to Congress in the context of Indian education. I just want to highlight that NACIE was established through ESCA of 1965, and also through the provision of the Indian Education Act of 1972, Public Law Number 92318.

It states, of course, that we'll do the report. In the beginning, the history of NACIE, NACIE produced annual reports from 1973 to

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1993. However, beginning in 1994 and continuing to fiscal year 2004, Congressional appropriations for NACIE were eliminated or were so drastically reduced that preparation of the required annual report did not occur.

Just locating that information, so appropriations weren't there and I think as a committee, we have the responsibility to be mindful of that, to be aware of this. We have to ask ourselves what happened during that time. I just plead with you to also ask individuals who have been on NACIE before -- I know Virginia I think is one who's been on here the longest of any of us, but it's something for us to be aware of as we continue to move forward.

Then I just want to highlight how we started, and part of the discussions that I heard this morning had to do with some of the challenges we faced this year. So we begin our context with, of course, the treaties. Thank you, Aaron, for taking the time to pull that information together. You did a very thorough

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job of that.

We kind of upgraded our work that we've been doing, because we're the basis of education and so let us come up with a summary for American Indian Alaskan Native education goals and how we are doing. One of the first statements that we talked about, and of course we all know the history of this, but we thought it was important because we had to adjust the goals for the whole impact of historical intergenerational trauma.

Again, just want to highlight that important work and the role of Indian boarding schools. Again going back to our history, our collective history, our shared history and the impact of forced assimilation. So we have to be cognizant of that and we have to continue to remind ourselves about that part of our history.

While this is the report to Congress and we have support in Congress, we have to remember it's coming in just like in our tribal governments we have transitions.

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There are turnovers and we experienced even in the agencies that you work with. I just wanted to again highlight that for Congress, as well. Then of course we know what the education attainment is. However, that's part of grading ourselves, we've also added just a quick summary of the assessment of reading and math proficiency. Of course, we do that in our own communities. We think we have to take a look at the school report cards as well as the Department of Education report card.

In the end, with the impact of COVID, and thank you, Virginia, for the prayer, opening with prayer today. That continues to impact us tremendously and it's impacting us in many, many ways. I'm home here virtually with my two grandchildren. Some days it's very crazy and because school is going ready to go on their break, it's a crazy day for me. I may be in and out with my grandchildren. We talked about the broadband access, and I just want to end by saying here in the Northwest one of the tribal

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leaders, after listening to some of the issues that are going on in education, a tribe of northwest Indians proposed a resolution to address this crisis in education that we're all a part of.

So that resolution was sent to the National Congress of American Indians and that resolution was passed. So I really want to acknowledge the roll of our tribal leaders, as well, in addressing not only the pandemic, but also the crisis that leaves us in and the systems that we're working with. I just want to also highlight, I said finally before I caught myself.

I want to highlight the story that Dr. Theresa John shared with us, her personal story and the impact of pandemic.

I thought it was important that we have a message about the pandemic because is our collective history. We're providing and sharing that collective history in this report that will live on beyond us. In every pandemic or in the history of who we are as Indian people, we have

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faced this before. I was appreciative that Theresa shared this with her language, as well. Thank you so much, Theresa, but I also just want to say thank you to the committee for the wonderful work that everyone is doing.

With that, I'll just leave it open to our committee members to highlight what they want to do. We just appreciate their contributions. I quickly want to thank Julian. One of his first tasks in dealing with us was to help us put this together, and appreciate all the support that he gave and the counseling that he did.

There was a lot of work put into this year and thank you so much for working with us through this time. I'm just going to turn it over to the committee then.

DR. DENNISON: Thank you, Patricia. I just want to also say thank you to the committee.

I have to say this is the most professionally put together report that we've done since I've been on NACIE, I know that. It looks really good. I love the pictures in the front and I

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love the story that goes with that. It really makes that connection. It flows really well.

I know the editing part and everything was everybody, but I know also that Julian, you were a tremendous help with this, so thank you. I know we had a process down really well. I appreciate all of you. I wasn't on this committee but I ended up being on it more because of the fact that we just wanted to make certain that everything went well.

I think that this is a good example, the pictures that we have of the Alaskan children on the front, then it goes with a story. It really ties together. I really appreciate that, Theresa, hearing your story. It just sends a real signal to me personally, just makes me feel really good to read through it. You can tell there's a lot of devotion, a lot of heartfelt work that went into this, so thank you everyone, all of you that Patsy mentioned, and to you, too, Patsy, for your passion with this. All of you, but your passion with this is really evident in

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the document.

The people at the Department of Ed also that got involved. This is the first time we really got to that core of having anyone read it and then give us feedback and go back through it again and answer the questions that were asked from the Department of Ed people. We really thank you for that, too. Just to start it off, that's what I have to add. Thank you.

DR. PAYMENT: I'll add that I really enjoyed working on this. It was a lot but it was a good bonding exercise. I felt closer and more communicative to our fellow members, and through whatever fiasco we had with not knowing who was actually the members, we all ended up kind of being contributors. I think that was actually really good, too.

This really is a professional document that builds on the expertise of the people that are on NACIE. We really do have a real solid brain trust with our members of NACIE. I like the way that it lays out with the cover letter

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that is addressed to the members of Congress and the agency heads. Then the way that we broke it down with the table of contents makes it easy to digest and get to.

I see this as a tool that I think is going to be utilized. What I would ask is that when we approve it today that -- oh, and also, Julian, you've been phenomenal with helping to get through the maze of edits. That part gets me all confused and I get frustrated, so I appreciate your competency with getting through all of that. I would ask that the next step, once we approve it, is that we animate it as a PDF document so that you can click on the sections and it will take you right to that section. I think that will make it easier for the staffers that work in the legislative offices to understand it and to read it.

As far as animating it, one other comment is I think that a request, it's not a direction, but a request to the department is to try to get the attention of the Senate Indian

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Affairs Committee, because we're really proud of this document. I think it can be really a tool that can assist them to support the Department of Education's efforts towards Indian education.

I don't think that should be seen as an affront or as something lobbying, because it absolutely is not lobbying. I hope we can cut through that red tape that we experienced before so that we can make this useful and accountable back to the legislature. Just I'm really pleased with our cooperation.

Oh, I guess one other thing that's very obvious and different from the past is the cooperation that we got out of staff. In the past it hasn't exactly been that way, but I have noticed a discernible change and improvement and I appreciate it.

MS. BUTTERFIELD: This is Robin. I will build on what Aaron said, because I really appreciated all the questions that the staff asked because it gave us a chance to sort of explain things that we didn't know there were

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questions about. So that was really helpful just on the receiving end of the questions, but then providing the responses to that.

I think of this document as the first thing we would hand to the new director of the Department of Education and ask that that be used as a tool to educate whoever comes in to guide the whole department. I'm thinking about this as a really good tool for transition legislatively, but also just within the department itself.

I just also agree, having worked on many of the previous reports, we're getting better every year in terms of -- we have this tension between trying to make it brief, but yet trying to have enough information that would inform somebody that doesn't know what we're talking about. So trying to set it up so that we have that executive summary is really helpful. Actually I thought it was already linked because when I tried to edit that part I kept getting bumped to the section.

I think that's already in process. I

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couldn't manage it before. But thanks, Julian, for interpreting all my hieroglyphics and moving sections around, et cetera, so I appreciate you did really make us look good. I appreciate it, so thanks everybody. Really it's rare that you can find a group that can work distance apart on editing a document.

It's really tedious work, and all the conversations that we had throughout the whole process I think were super helpful. I agree with Aaron. It is (audio interference) kudos to everybody.

MS. WHITEFOOT: Thank you very much, Robin, and thank you, Aaron, as well. Appreciate it. Others?

DR. JOHN: I just want to say I really appreciate being involved in the dynamic working group. I agree with all the comments that have been said already. I do believe that this is quality work, and it is a work that will be beneficial for all. I really looked forward to Fridays because it would mean headaches and

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thinking and rethinking.

Writing that piece of report on Alaska really made me think about the reality of things and how different we live, and yet the issues are the same. The group really showed the compassion and knowledge that we have. I felt comfortable knowing that other people had different expertise I don't have.

The fact that we're putting all our effort into this dynamic work, I think as a collective group, from the staff, from the council, I applaud all the council that was involved in it. It did take a lot out of me, but I appreciate the fact that I was able to put a voice on behalf of our people.

I think truly the group had represented the different land bases of where the students come from, that we were able to articulate in a good way the meat to put into this content. I truly agree that it is the most professional output that I've seen so far, having served on the committee for a decade, so thank

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you.

MS. WHITEFOOT: Thank you very much, Theresa. Others? Thank you. I just wanted to highlight Donna (audio interference). I just want to emphasize the role of the feedback that we got from the education staff. That was important and that was a first for us to have that opportunity to have two of the education staff review it and give it back to us. That was very helpful to us.

The photos have really made a difference. Just kept bringing that on for us and just for your information, the members of the commission, the Department of Education already has photos. They already have permission to use these photos, and it just so happens that the ones that, those are ones that were very appropriate in connection with the narrative that we provided.

Finally, Theresa mentioned that we did have our meetings on Fridays. Somehow that Friday (audio interference) what we're going to

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do with our Fridays. I'll entertain a motion to approve and we can go into discussion.

DR. PAYMENT: So moved.

MS. BUTTERFIELD: I'll second.

DR. DENNISON: I've been reminded on the chat box that we need to introduce ourselves before we say anything for the reporter. That was Patricia that asked for that.

MS. BUTTERFIELD: This is Robin, I'll second.

DR. DENNISON: Who made the motion?

DR. PAYMENT: Aaron will make the motion.

MS. BUTTERFIELD: This is Robin. I'll make the motion to approve the report.

DR. DENNISON: Okay. Any more discussion.

DR. PAYMENT: Hold on for a second, I'm sorry. I will defer to Patsy for the motion as our committee chair.

DR. DENNISON: Okay.

MS. BUTTERFIELD: This is Robin, I'll

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still be the second.

MS. WHITEFOOT: Now you can speak, Aaron.

DR. DENNISON: Okay, any discussion? I will call for the question. All in favor say aye.

(Chorus of ayes).

DR. DENNISON: All not in favor? Are there anyone opposing it? No opposition. Any abstentions? The motion carries 9-0-0.

DR. PAYMENT: Yay. Celebrate.

MS. WHITEFOOT: We can celebrate next Friday, too.

MS. BUTTERFIELD: It will be Christmas, right.

DR. PAYMENT: Oh, it's Christmas next Friday.

MS. WHITEFOOT: Thank you, Deborah. Thank you everyone.

DR. DENNISON: Okay, Julian. We can go on to the next item on the agenda, which is an update regarding operating procedures under FACA.

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MR. GUERRERO: Thank you, Chairperson Dennison. I've just got to say we only have probably a handful of Fridays until we've got to start the next report. It will make our free Fridays that more savory for us as a group. I'm really excited by what we can accomplish in this next round of reports. It's a living document. It's just like this body, it's a living body.

We go through experiences that deserve documentation. There are stories that deserve to be told. I'm just incredibly excited by the staff who are here today, it's heartening to be moving this relationship forward in a very positive way. I think one of the challenges for us in the next round as we do these reports, I think this is the time to really brainstorm quickly on how we can continue to make this document twice as much (audio interference).

Councilmember Robin Butterfield said it the best way, that there's a natural tension between the brevity and the building of a narrative. You want to say everything, you just

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say it in the most strategic manner. I think there's a lot of ideas that we tend to use and a lot of techniques that can be deployed to really accomplish that. I think as we think about the next annual report, please bring the ideas to the table because I really think we can strive to even make it better. Everything can improve if we're committed to it.

MS. HERNANDEZ-MARSHALL: Excuse me, Julian?

MR. GUERRERO: Yes?

MS. HERNANDEZ-MARSHALL: I'm sorry to interrupt. Can I just ask folks if you can mute your phones, just because there's a lot of background noise and the court reporter is trying to capture. Thank you. Sorry about that.

DR. PAYMENT: I think it's one of the callers. It looks like all of the video people are otherwise muted, yeah. I can hear it's still there. How do you mute one of the phones? Is it \*6? Oh, there it goes.

MR. GUERRERO: Yeah, I got it. It was

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Virginia. Virginia Thomas, you can unmute yourself whenever you need to. I went ahead and muted you for the background noise.

MS. THOMAS: I am muted.

MR. GUERRERO: Okay, great. So sticking to the agenda items, the first one you have in your binders is the update regarding operating procedures under FACA. That's a very fancy terminology other than to say that this is a friendly reminder, and we wanted to give you a reminder now versus doing it the month of and the week of. For appointed Ed advisory committee members, there are two ethics requirements.

The first is in January of each year.

The ed advisory committee members are to submit a confidential financial disclosure report, or the OGE Form 450 Ethics Report. You ed members are very familiar with this 450 form, the OGE 450. This is just a reminder that January is upon us, and that you're to review the form with an ethics attorney assigned to the committee.

A members OGE Form 450 must be

submitted by the January due date to participate in the committee business for the advisory committee he or she is appointed to serve on. Again, this is a reminder that an announcement, a message is forthcoming, so really think about any sort of updates you would need to make to that form.

Go ahead and start notating in the back of your minds or on paper. If you're like me, I need to write it down on my list and keep it spaced away. I would appreciate if you could really think about those and when that does happen, you'll be anticipating that and ready for it. Any questions on that?

DR. PAYMENT: Not a question, but a comment. My proposal is going forward if we could -- is this just the only annual thing that we're going to be doing, or are there other annual items that we could put on a calendar?

MR. GUERRERO: That is a great question by Dr. Payment. Angela, is that the only annual obligation in ethics?

MS. HERNANDEZ-MARSHALL: The training event, which we just did, and then a request to complete what they call the 450 form or the disclosure form.

DR. PAYMENT: Those are the two?

MS. HERNANDEZ-MARSHALL: Yes.

DR. PAYMENT: So would I propose, because I think this will be more effective, is when that goes out, hopefully shortly after our meeting today, so you're giving us a preview, then send out the communication. Then check off whose submitted and then rather than send a communication to everybody, as if none of us complied, it would be better if you sent it just to the person who it's relevant to because then they know that it's related to them and it's not just a general email. Then they will realize that okay, I forgot to do it or I haven't done it, but I'm going to do it now.

I just think that kind of accountability is a little more effective than sending a general communication out to everybody.

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I can tell you when I was getting those, I was like oh wait a minute? Did I submit it? I did, I usually do immediately, but I was like okay, I'm not sure. Then I'm sending an email to ask did you get mine? Did I not submit it?

I just think it would be more effective if it were specific to who didn't submit it so then they get a reminder and then maybe a phone call. We're all busy, and I know it's our duty and obligation, but I think that is just a better approach.

MS. HERNANDEZ-MARSHALL: Dr. Payment, thank you for that feedback. I've taken note and I'll make sure that when we do the follow-up that we do it on an individual basis. The other thing just to clarify, the 450 form won't go out before January, because it's issued by our ethics office. We have to wait for them to give it to us. As soon as we do have it, and I'm sorry for the court reporter's purpose, this is Angela Hernandez, we will issue that as soon as we get it to all of you.

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DR. PAYMENT: And whoever is first gets a block of cheese. That's as good as we're going to get.

MS. HERNANDEZ-MARSHALL: There's no action item on this?

MS. WHITEFOOT: This is Patsy. I just have a quick question. Is there a deadline? You may have said it, but I had to step out for a little bit.

MS. HERNANDEZ-MARSHALL: I don't have that information right now, Patricia. That's contingent upon -- I'm sorry, this is Angela again. That's contingent upon what the ethics office requests as far as a deadline date. Again, as soon as I have that information I will let you guys know. This was just more of a heads-up that we know that this is going to be coming in January at some time.

MS. WHITEFOOT: I thought there was a January 31st or something like that, so okay.

DR. DENNISON: Yes, in the past it has been January 31st.

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MS. WHITEFOOT: Okay.

MS. HERNANDEZ-MARSHALL: Thank you, Dr. Dennison.

MS. WHITEFOOT: Thank you.

MS. HERNANDEZ-MARSHALL: This is Angela again and I also want to address Dr. Proudfit's question in the chat box. She asked about a DocuSign form. That's not something again, that OIE can dictate. It's our ethics office. I can just tell you as somebody who also manages contracts for the department, I'm required to fill out the same form you are as a contract representative. Every year we ask for that, as well. We have yet to see that.

That's not something we dictate. It's a privacy issue. There's a number of legal issues related to that, which is why I think they've been slow to make that electronic. I know it's not convenient, but just wanted you to know that.

DR. DENNISON: Thank you, Angela. Julian, I think we're pretty much updated on that

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item, so if we can go on to the next item, which is update regarding bylaws for FACA board committees.

MR. GUERRERO: Thank you, Dr. Dennison.

This is Julian Guerrero for the record. In terms of an update regarding the bylaws for the FACA board and committees, this is definitely something along the lines of the commitment to getting the annual report moving. We have the same commitment to really be responsive to NACIE in terms of the bylaws, as well. We have some understanding of what the processes entail and what needs to happen in order to accomplish what's being sought here.

In terms of the bylaws, the committee bylaws are technically possible. That's important to know. However, it requires a multi-step consultation between the department agency-wide approval process, and then the second component of consultation would be consulting with the United States General Services Administration, or GSA, specifically the

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committee management secretariat.

Just to give you an idea of the internal Department of Education process, it goes to the Office of General Counsel, Division of Business and Administrative Law, or what we call in our acronym DBAL. DBAL provides legal services to the department officials concerning business management, administrative activity throughout the department, including, but not exclusive to contracts, grants, procurement, standards of conduct, labor relations, appropriation, budget, compensation, employment, travel, Freedom of Information Act, the Privacy Act, as well as the Federal Advisory Committee Act or FACA.

The list goes on and on, but I'll stop there because that's where FACA comes into play here. One of our first goals is to really get this through the department process and then move it to the next step, get it to the GSA Committee Management Secretariat. In terms of really where we are in that process, I'm pleased to inform you

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that Karen Aikens, the committee management official for the department, has shared the draft of the bylaws with the Office of General Counsel.

I'm assuming it is, at that point in time, going to OGC within DBAL. She shared a copy of the bylaws that Aaron Payment had sent to her. So Dr. Payment, the one that was sent to Karen is the one that went over to OGC. I wanted to check really quick is if that's the latest version that should've been sent to OGC.

DR. PAYMENT: I would say no, and the reason is because we were stopped before we started. We had taken the --

DR. DENNISON: I'm sorry. Aaron, you -  
-

DR. PAYMENT: What's that? Am I muted?  
Can you hear me?

MR. GUERRERO: No. You have to introduce yourself, Aaron.

DR. DENNISON: You have to introduce yourself.

DR. PAYMENT: Oh, this is Aaron

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Payment. When we created the subcommittee on the report, we also created the bylaws subcommittee.

The work that I had prospectively done was to take the original bylaws and to look through them and to do some tweaks and based on what people said they wanted to see, just took a stab at it.

But we weren't able to meet.

We were basically told to stop, so we haven't. I don't want to represent that the work that I did is in any way reflective of what we need or want collectively because we didn't even get a chance to do that work. We were told initially that we couldn't work on it while we didn't have -- while your position was vacant, Julian. Then for some reason we were told we had to wait for the annual meeting. We had to put it on an agenda.

We weren't able to get it on a couple of agendas, and that creates a lot of consternation. Here's what I would say is what would be helpful is if we could spell out or maybe just summarize the process. We are willing

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to go through whatever that process is, but I would say that we should take a look at the original bylaws that were drafted. It's been clarified they have never been approved.

It's outstanding work that's been outstanding for a couple decades. It's time for us to pick it up. What I would like to be able to do is to call for committee meetings to be able to start working through a draft and see. We do have a committee. I circulated that information to you a couple months ago, Julian, of the committee members. I'd have to look for it again, but that's where I think we should start is to take a look at that first. Then once we get through that process then we can start going through the administrative approval process.

MR. GUERRERO: This is Julian Guerrero for the record. That all makes sense, and I think the objective is to get that latest version of the bylaws. It would make sense to get it from the subcommittee for that work. I think one

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of the ways to make sure that we can keep this on the radar of the council is to have it as continued old business on the agendas.

It won't be to me that hard to have subcommittee meetings because that's what we use to accomplish our annual report work, honestly. If anything, I feel like we can accomplish that.

Again, I wanted to really bring this information to the NACIE body on the two major steps involved in this process. It's getting through OGC, DBAL, and then getting it through consultation with the GSA committee management secretariat.

DR. PAYMENT: Sounds good to me.

MS. BUTTERFIELD: So did I hear, Julian, that --

DR. DENNISON: Introduce yourself, Robin.

MS. BUTTERFIELD: Huh?

MR. GUERRERO: Introduce yourself.

MS. BUTTERFIELD: You can't hear me?

DR. DENNISON: No, introduce yourself.

MR. GUERRERO: No, announce yourself.

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DR. DENNISON: Introduce.

DR. PAYMENT: Ladies and gentlemen,  
Robin Butterfield.

MS. BUTTERFIELD: Sorry. This is Robin. I forget what I was saying. Did you say that you actually submitted the old draft already?

MR. GUERRERO: So there is a draft that has been submitted to OGC DBAL, so it sounds like --

MS. BUTTERFIELD: Can we pull that back?

MR. GUERRERO: This is Julian Guerrero for the record, I apologize. Yeah, so we're going to probably have to send a message to rescind that and say not yet. We'll get that done.

MS. BUTTERFIELD: I agree with Aaron, we should probably, even just to start our work, to start with the one that we already put out to the whole committee and just go from there. I thought you said you had sent something in, so we

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don't want that one to go in.

MS. THOMAS: I have a question. When you say the old one, was that the original one you put forward?

MR. GUERRERO: This is Julian Guerrero for the record. In response to Virginia's question, Virginia was asking along the lines of which version? Is that the original, original one, which I don't know what date that would be?

I don't know which version was submitted, but whatever version it is we'll pull that back.

DR. PAYMENT: This is Aaron, to answer that question.

DR. DENNISON: Go ahead, Aaron.

DR. PAYMENT: To answer it partially, Angela had circulated to us, which I think is the original, original. Then what I did was I took a stab in preparation for our first bylaw meeting that we were going to have, and all I did was I tweaked it. There were some things that weren't internally consistent, so I cleaned that up.

I didn't at all touch the issue of the

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co-chairs or the vice chair because that already exists. I didn't have to do that. What instigated this was at a meeting we thought that we were in compliance with those original draft bylaws by voting to set a co-chair. Then we were told that was inappropriate, so we needed to go back and look at the bylaws if we want a co-chair or a vice chair, to look at the bylaws.

So then we got the bylaws and created a subcommittee, and lo and behold, that's what the original intent was of NACIE, to have a chair and a vice chair. So that's been the intent all along. I'm okay. I don't want to be argumentative about it. I didn't make any changes to that at all because it was already there. Again, I'm not trying to jump ahead of anybody.

I did not expect that that version would go forward without a committee meeting. It was just a mockup so that we could start our process. I think I was made the committee chair, so I thought that I was doing the committee chair

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work. We can start from scratch.

CHIEF ANDERSON: This is Phyllis Anderson. Can you hear me?

DR. PAYMENT: Yes, we can hear you.

CHIEF ANDERSON: One suggestion I'd like to make is that in the future, once we have a committee meeting if maybe the chair of that committee can do a summary of the meeting so that we know what's official and what isn't so that we could have the documents in proper order and go where it needs to go.

DR. PAYMENT: Yes. This is Aaron again. I would add to that, because that would clarify that the draft was not anything that was expected to move forward because we never did have a meeting. We were trying to schedule the meeting and we were told that we needed to stop because we didn't have a director. But I think if we were to keep copious notes and a summary note about our subcommittees then we would have a clear paper trail of where we're at. Good idea, Chief.

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MS. WHITEFOOT: This is Patsy Whitefoot. Can I speak?

DR. DENNISON: Yes, Patsy. Go ahead.

MS. WHITEFOOT: Thank you. I just have a question after listening to all this. I'm the one who keeps asking for this item to be on the agenda, and I don't know how many times I've done this. I've been asking for election. I'm wondering what happened when some of us came on a few years ago and we did elect a chairperson and a vice-chairperson. Did we have the bylaws in place then?

DR. PAYMENT: No.

MS. THOMAS: This is Virginia. I was the one that did the original bylaws, just trying to get (audio interference). It was my suggestion that we have this. I think it was under Victoria Vasquez that we were actually trying to get this through. We just hit a wall and we weren't able to get this through. We had actually no any type of doctrine to govern our council by at all, so we were trying to put

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together examples of what we were asking. We did things by the seat of our pants that we did this.

There is no concession to have a co-chair or a vice chair. We didn't know better. We just did it, so I don't know if it was in compliance or not. I think at this point we need to make sure we are in compliance to what we can and cannot do, so when we do get the bylaws papers together and how we want them, then we can present them in an orderly fashion and not just say well, we've already done it. We've done it before so why can't we do it again? That's not going to cut it. We need to get this document in place and (audio interference). My concern as the clerk at the beginning was back in the original one (audio interference) to have something documented that we could pass on to the ones that will come after us. We want to make sure that there's something in line that says oh, that's why they did this. That's why we have to do it this way.

We want to pass something, and those

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who joined in afterwards, you can automatically see that if you still have questions about the bylaws, because we have nothing to document what we did or tried to do. I appreciate what Julian is trying to do for us, to get this in place for us. We're not always going to be on this council. There's going to be a new administration coming in and we don't know if we're going to be here still.

I wanted to make sure that at least we have a draft of something that whoever comes behind us will be able to pick up and keep going.

MS. WHITEFOOT: Thank you, Virginia. I couldn't hear all of it, but I got the idea of what you were saying. That is my point. We didn't have bylaws in the beginning, so that's the reason that I've been advocating for us to have elections because we didn't have bylaws. I hear you, Julian, and I understand the importance of this.

That was the intent of even just going ahead and making a motion to have Aaron serve as

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co-chair. I understand we're trying to get ourselves in order. I understand that. But the communication I guess from the Department of Education, and not putting the blame on the Department of Ed, but the communication hasn't been very good. That's been the dilemma that we have and it's been very frustrating, to say the least. That's my point. It's not that I don't agree with Dr. Dennison being in her position. It's just trying to make certain we get the support in this role.

MS. BUTTERFIELD: I think Angela wants to respond, and then this is Robin, I wanted to respond, too.

MS. HERNANDEZ-MARSHALL: Hi everybody.

This is Angela Hernandez, for the record. I'll say two things briefly, and one really more just point of information for you, Julian, coming in new. When we're speaking about establishing a subcommittee, that subcommittee was established in February 13-14, 2020.

It was the last public meeting that

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the council was able to do in person, because it occurred just three weeks prior to the beginning of the pandemic and lockdown, which contributed, along with Angela's departure, to OESE making an executive decision to limit the activity happening across because we had many, as you know, competitions going on. We had a lot of work.

We had a high volume of work and we had far fewer staff than we'd ever had in the office. It was why we took -- and we shared that with the council -- we took the steps of being sequential as opposed to concurrent about doing the subcommittee work. The first order of business was the OIE director hire. Then that was followed by what you took on coming on board, which was the agenda, I'm sorry, the annual report.

That's part, just in terms of the work and the attention to this particular bylaws committee and the priorities set. Obviously there was priority due to the urgency of the

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other two items. Not to say this one is not, but just in terms of time sensitivity. But the other point I just wanted to share, and this is coming from Karen.

I appreciate hearing everybody share their institutional memory on this because I'm new to this, as well, relatively speaking. But I will say that Karen did note two things. One was in general, meaning across the committees that are appointed by the White House -- so not just NACIE, but the other affinity groups -- that in general the historical precedent has been that the White House does the appointment of the chairs of those respective committees.

How that's impacted NACIE, I don't know. You guys know better than I just historically how that's played out. But that was Karen's response. Then the other question to the bylaws discussion specifically, and this is a question for you all just so I can bring this back to Karen, as she's on leave right now, is the question of -- I know that she did share it

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with the Office of the Secretary, who then shared it with our general counsel, with our attorneys in that respective office that Julian cited.

But given that, I'm thinking that also, not that they need to vet it as being a final, but I know that part of the reasoning for Karen -- and I'm speaking for her here -- is the expectation that they would be able to also give feedback about parameters, because they're having to go and look at FACA laws and requirements and all that good stuff. It's stuff that governs that process outside of the department, meaning it goes to the General Services Administration.

So, I know that part of the intent of her sharing was let's make sure we also give you guys guidance so you didn't create something that then it wasn't created the way that they needed to be created. Forgive my lack of articulation there, but in essence not going too far down the road without having to redo it, if for example, there's something else that we needed to take into consideration.

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That's all I'll say about that. I think that might be a good use of the time is getting some feedback just in general, even on that draft to be able to know and be able to be guided to move forward and be well informed as we're doing that. I'm happy to take back to Karen whatever else, other questions, and really your questions will be helpful throughout this conversation.

MS. BUTTERFIELD: Thank you, Angela. Since everybody is giving background information, I have just two comments. The first one deals with what I understand historically. When I first came on we were a brand-new board. We elected a chair and a co-chair. So by practice, as Virginia intimated a little earlier, we already had gone through that exact same sort of structural understanding.

When we tried to do that again, we were told by the department that we couldn't because we didn't have active bylaws. It felt, and maybe it's just me that felt this, but I

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think others felt as well, that we were being stymied to create the structure that we wanted as a board because it was overlaid by a decision of the department. That's just the historical piece that I wanted to share.

The second thing is moving on into the future, can we honor the election that we had prior? If not, do we have to repeat that? That's one question. The second one is recognizing what Virginia said, if we want to have a document that we could pass on to a new NACIE, then we have a very tight time line if we're looking at whenever the reappointments would come. At a minimum, at least by end of January.

The new administration is moving quickly to appoint their department heads and things like that. I would suggest that we get on it in terms of doing the bylaws. I think I was on the committee with Aaron, because I received his first draft. I do have that one question about the previous election that we had and we

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were told to hold off on that, as well.

MS. HERNANDEZ-MARSHALL: Thank you, Robin. That was Robin Butterfield speaking for the record. This is Angela Hernandez. I've noted that, Robin, thank you, and I'll share that with Karen.

DR. PAYMENT: Could I be heard?

DR. DENNISON: Go ahead.

DR. PAYMENT: This is Aaron Payment. So I'm just going to say it like it is and then we'll figure out how to go forward with it. It was spring of '19 that the body decided to hold an election to appoint a co-chair. There were enough people that are here now that were there at the beginning that recall that there was not a co-chair, but a vice chair.

And so, when the idea came up and the motion came up, it was for a vice chair. It was voted on by the body, but I do recognize that potentially it's out of order because it wasn't on the agenda before. It is frustrating, and ongoing frustrating, that Patsy has put it on the

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agenda -- tried to put it on the agenda several times. And, I see it's on the agenda as a discussion item. I do agree that we have to get it clarified.

But the one thing, back home we call it talking out of both sides of your mouth, is if we say that that vote is out of order and that any vote subsequent to not having a set of bylaws for a chair is out of order, then how is it that we have a chair. If you just do some basic logic if-then statements, then we don't have a chair unless maybe it's true that at some point there was a vote before my tenure -- it would have to be before my tenure because it didn't happen since I've been on NACIE since 2015.

It could be that there was a vote at some point, a motion to set a chair position and then the Secretary recommends to the White House that that be the chair of this committee. That's conceivable, so I will concede that. In the absence of that, any documentation to show that, then arguably we don't even have a chair. The

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reason I'm saying that is not at all to second-guess Dr. Dennison as our chair.

At one point there was some interest or encouragement for me to be chair. I said no, I would rather be vice chair to be helpful, and I want to be respectful, blah-blah-blah. All the more reason that we need to dust off whatever we need to do and get it clarified. The one thing that I think would be helpful, and that wasn't helpful, but would be helpful is if our approach is different.

Our approach with legal, who has been advising us in the past, has been very quick and very easy to tell us what we can't do. One of them was we can't talk to Congress and we can't request to submit our report to Congress. Somehow that's outside of the boundary lines. The other one was the officers and the vote that we held in spring of '19. Instead what would be helpful is the explanation that you just went through, Angela. We've never had that explanation in a professional way that respects

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us as the advisory board and as professionals. We've never had that.

What we've had instead is we can't do that, we can't do that. Also I'm going to call it out. It's clear that some members of this committee have talked to Karen outside of meetings and have come to understandings and then called into question that vote. I don't think that should happen. I don't think that's legitimate. I think that we're all equals on this body and that should not happen.

Having said all of that, I think the solution is to expedite having our committee meetings to draft up a set of bylaws, to get a set of bylaws once and for all. I'm supportive of what the original intent in those draft bylaws, which was a chair and a vice chair. Then what we should do is after we set those bylaws, we should set a meeting to be able to hold officer elections.

Because, you know, on one side it's one thing to say it's illegitimate to have a vice

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chair, but on the other hand, if anybody on this body can ever remember voting on a chair share. It had to have happened more than five years ago.

We probably should have a vote on an annual basis or maybe every two years, whatever. I can tell you one final thing. It's almost like a deer in a headlights sort of reaction.

There are several other advisory committees that exist right now and they have bylaws. I serve on HHS DAC. I served as the chair of NIH travel advisory. I served as the health research advisory, and at the time that we wrote our bylaws. We do have advisory elections.

Nobody in this body is trying to pretend to tell the administration who should be their chairs of the committees that they appoint.

The way the other committees do it is we hold elections and they're advisory. When we put up a chair and a vice chair, we're recommending to the Secretary and to the White House who those people would be. We know that we're advisory. We know we're subordinate to

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that process, and that a decision is made by the administration. We don't self-elect ourselves. So, we understand that.

That's all I'm saying is let's get to that point. Whatever happened in the past is in the past. Let's go forward. Let's just move forward and finally get this work done.

DR. DENNISON: Thank you, Aaron. I've been pretty silent about this because it does impact -- I just want you all to know that -- this is Dr. Dennison speaking, by the way. I don't take any of this on a personal level. It's purely professional. I'm not taking it as being targeted or anything. I just want to put that out there. I agree with a lot of what's been said, but I also know that it has been explained to us, probably prior to those that came on in 2015.

From the very get-go we did have training on this with Secretary -- the Undersecretary. I can't remember the name of the people that were there, but in 2010, those of us

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who were appointed then, didn't have an election.

It was on the agenda. It was with the Secretary. The Assistant Secretary was there and we elected a chair and a vice chair if I remember right. I was vice chair.

There were no bylaws, but it was on the agenda and most of us, except for Virginia and Craig, if I remember right, were appointed under the Obama Administration. If you remember right, too, in December of the last administration before it changed over to the current administration, we were all told that we were going to be off. It wasn't until almost a year later we were told that we were going to stay on.

That's when it was explained to me from the White House that it stays on until they say they want to appoint a different person. That's the way I've always understood it, whether or not I've had discussions with other people. I do, I talk with people at the White House, with people that call me or send me messages or say

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this and that. I want to return their calls. Also same thing with Karen. She does contact me every now and then about things. That's just the way it was always explained to me, whether everybody else was in the understanding.

It doesn't appear so, but just to answer your questions. We're different. That's the one thing from the very get-go that I learned when the new administration came on in 2016 was that I was advised not to discuss with anyone out there about -- because reporters were calling wanting statements.

If you remember right, most of these advisory councils that were out there were being dismantled and it was important to not say anything about because we're not the same as all these other advisory councils that we keep being compared to, because we are specifically designed by an Act of Congress. It's not like we can just take them apart. I just wanted to share that much with you all as my understanding of what I know as the discussion that goes on between

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myself as chair and the rest of --

I am all for alternating, especially with what I've been going through the past couple of weeks in my own personal life. There is no priority more important than my family, so if somebody else wants to take on being the chair, so be it. I'm fine with that. It has nothing to do with me personally. It's just very -- (audio interference.) -- share that with you all.

I just feel like sometimes that -- I don't ever want to say I'm putting up my guard, I want to hold on to this position. It's not like that at all for me. I just want to say that to you all from myself more specifically and not have to, you know, as Aaron put it, be candid about it, make certain you know that's the way I feel. It's an honor to be a chair, and if somebody else would like to do that in the future, that's not my choice. It's someone else's choice. We'll leave it at that for now. Thank you.

DR. PAYMENT: Can I say --

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(Simultaneous speaking.) DR.

DENNISON: -- Virginia had her hand up first.  
Virginia?

DR. PAYMENT: I'm sorry.

MS. THOMAS: Hello, may I speak?

DR. DENNISON: Yes, Virginia.

MS. THOMAS: Thank you. We can have this discussion for a long time and all day and every day, but if I misunderstood I apologize. I think right now we're really waiting on Karen and what opinions she's getting back, what we can and cannot do and how we should do it. I would like to see if -- we can keep this on the agenda, but I think we need to hear back from Karen and who she is getting advice from within the department, within different attorneys that we need to talk to, on how we can go forward with this.

We can't say well let's just go ahead right now because that's been a precedent. I don't believe we should act on that. I want to act in a way that will be really clear because it's not guaranteed that we're going to be under

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the new administration. When the new administration came on under each president, we were all ready to pack up our things and say goodbye.

In fact, I think one time we actually said goodbye to each other. We thought we were all off and the next thing you know, we're on. I would like to wait and hear what Karen has to say about this issue or about somebody that can advise us and then go forward from there and not just do something and then have to retract it.

DR. PAYMENT: I'd like to be heard.

DR. DENNISON: Go ahead, Dr. Payment.

DR. PAYMENT: Yeah, this is Aaron again. Maybe I've been a tribal leader too long and I perceive sovereignty in a particular way that maybe others don't fully appreciate or agree with. I'm not at all interested in serving on an advisory with some kind of discretionary deference to legal counsel.

If we had had a different approach that was communicative and respectful of us as a

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professional body that's appointed for a particular reason. We are appointed because of our expertise, because we represent a diversity of educators and tribal leaders. It's insufficient and inadequate and paternalistic for us to be deferential to some legal opinion that has never been forthcoming.

One other thing that was thrown up as a roadblock is we were told that we could not hold a NACIE meeting in conjunction with an NCAI meeting and that that just was not acceptable. I delved into that a little bit closer and found out that there was nothing coming from legal that was telling us that we couldn't do that.

I think a better approach than just giving deference to some opinion that's not based on any regulation or law is that when we're told we can do something or not do something it should be documented. Show us in the regulations where it says we can't do something or can do something. We're decades past the Indian Self-Determination Act where we have to just accept an

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outcome.

I think a better professional relationship with the staff that's in the Department of Education is to come forward and say we apologize, we see that you tried to have an election, but the appropriate way to do it is this way. Finish the work to pass a set of bylaws. Your votes on chair and vice chair will be advisory to the department and to the White House.

I think that's a much more tenable, professional way to do this. What I perceive, and I know I'm not alone in this, I think that several of us -- I'm not going to speak for anybody else -- at different points have been on the brink of is this worth it or why are we wasting our time? Rather than have that approach, let's have a different approach.

Let's take this and make this something to be proud of. Let's take this and use our expertise. Let's work with the regulations and with legal to draft up what we

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believe and then we'll see what happens with it.

It sounds like contrary to what you just said, Virginia, what Julian just reported on was that Karen understood and Julian understood that the draft bylaws were already ready to go forward and be looked at, and that Karen at that point wasn't saying no, stop your work again. That's not where we're at.

We're saying we don't believe that that draft is ready to be looked at. Let's not take a couple steps backwards. Let's work together to try to figure out how to do this respectfully and go forward.

MS. ANDERSON: This is Phyllis and I'd like to speak.

(Simultaneous speaking.)

DR. DENNISON: -- Thank you for, Dr. Payment -- Phyllis --

MS. THOMAS: -- I'd like to address what you just said about this. Maybe I wasn't really clear. I don't mean to take a step back.

The issue was to maintain where we are. I don't

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want to take a step in the direction that we have to retract. I truly believe we are given this opportunity under the Department of Ed., and we have to be respectful of those regulations, those things that we have to abide by under that department, and not to jeopardize the staff that is there and work with them.

But yes, I think we should go forward, but I don't think we should act upon something until we actually have something in hand -- (audio interference.)

MS. WHITEFOOT: Deborah?

DR. DENNISON: Thank you, Virginia. Phyllis was next.

MS. ANDERSON: Yes. Just a couple things I'd like to say and I'm not going to try to be too long. First of all, I think that it's very important that we do complete the amendments to the bylaws because that will give us the authority to do what we can do and what we should do, and that we will all know what we are able to do with the bylaws because that's a document to

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follow.

Second, I believe it's very important that we get some membership into the NACIE Council. We have what, five vacancies now? I believe this was a year and a half or maybe two years. I don't know my time frame, but Joely and I were charged with bringing in or recommending membership. That was at one of the meetings, I can't remember. Joely, do you remember when that was?

But, anyway, I had brought one in for recommendation to our last meeting that we had. At that time I was told that I didn't need to do that, that I just couldn't come and recommend because the tribe needed to recommend or someone else needed to recommend. That's not what we were told in the previous meeting. It's always we're told different stuff. We do one thing, but we're told something else.

I think it's very important that we get these bylaws done so that we all know what we can and cannot do. Second, we need to get these

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memberships filled. I know that will be the responsibility of the new president. He may want to refill everybody. We don't know if we'll be there. I don't know if he will just want to fill the five or fill all 15. I don't know that.

But my thing is, we get different information when we try to do something and that's very frustrating. When I was told that we couldn't submit a name, I did send some information, some bios and resumes that I had to Ron Lessard. I've never heard anything back. I don't know if anything has been done on that.

My point is this. We can sit here and argue or we can sit here and talk about things that may or may not be right. But listen, in my heart the only thing I want to do is make sure that we take care of our Indian children and their education. That's what I want. If that means we have a new president or not, and I'm talking about a new chair or not, a new vice chair or not, we need to get all our ducks in a row so that all of us can work together and do

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what's right for these Indian children so that they can get the education they so deserve.

That's what I want to do. That's what's in my heart. I think everybody on this council feels the same way. Let's get the bylaws done. Let's hope that they put new members in so that we can continue the great work that's in front of us, but we do it together. That's all I wanted to say.

MS. BUTTERFIELD: This is Robin. I think I was next in line, and then it looks like there was a caller. Robin Butterfield for the record. What I just wanted to remind everybody is that we are a presidential appointed committee. That said, first of all, the nominations that Phyllis was talking about previously went directly to the White House, not to anybody in the Department of Ed.

There used to be a Director of Indian Affairs at the White House and all of our nominations went through that process. If we are thinking of people we want to recommend, we can

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start sending things forward that way. I think sometimes we forget that we are voicing ideas on behalf of the President of the United States. That's why it feels really -- and our board was created by statute.

So we do have some authority to operate, and I feel like if we always defer, as Aaron said and Virginia was intimating, always asking parents for permission, it feels like we have lost our level of authority and influence, that we were appointed because we had something to offer. It does feel like our work does not get done sometimes on behalf of our kids in our community.

I just wanted to remind everybody that we are a very important advisory group and that we do have a lot to offer to the Department of Ed. Things that we tried to do in the past seemed very, I guess, adequate in terms of trying to function as a good board and we feel like we're being thwarted sometimes in terms of getting that business done. That's all I wanted

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to say.

MS. WHITEFOOT: This is Patsy, I've been trying to get in.

DR. DENNISON: Go ahead, Patsy.

MS. WHITEFOOT: Okay, thank you. I appreciate all the comments. I think that they're very necessary. Unfortunately we have to repeat it, but we're going to continue repeating because it's the same thing we have to do at home, as well. Whatever we do, I want to make certain that we document our resolution of whatever this is going to be. Whether we're going to be here or not, I think it's important to document.

And, I agree with what Aaron said. I, too, when I was on tribal council served on various federal agency committees advisory committee, appointed not necessarily by the president, by the secretaries. The federal agency secretaries appointed us to these committees. I agree with what he's saying. I just feel like that when we go and ask for, if

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we're doing okay then we're told no. Karen has to go back and ask someone about what's going on here?

That's really frustrating. I guess my point is I just want us to come out of this with some kind of documentation either we're in a committee or we're not. In terms of our merit or if we're going to make a motion, I think that's going to be important for resolution about this situation that we find ourselves in. So, that's where I'm at with it.

DR. DENNISON: Thank you, Patricia. Any other comments on this from anyone?

MR. LESSARD: Hi, this is Ron Lessard. May I speak now?

DR. DENNISON: Yes, Ron, go ahead.

MR. LESSARD: One thing that I would appreciate, and because I was chief of staff for three years. I've been acting executive director for four years, and over the last seven years different not criteria, but the process of selection. I speak to Virginia, especially. I

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think you're absolutely right. One of the things that I could think would be helpful, and I don't know if this would come from NACIE or come from the Department of Ed. The process of selection - - so, what we were told in the past was if we received a recommendation from NACIE, that that would be forwarded to the White House, which we have done.

We've done it ever since the beginning. In the Obama Administration, we had clear contacts. Certainly with Jodie and Rayna and others, and they would acknowledge that they received it and that they were looking at that. We weren't given any privy knowledge of what they were considering, but at least that was the process, it was supposed to go to the White House.

However, if it did come to us, we would take it and forward that on to the White House. That has been done in this administration. However, like Virginia said, when you forwarded that to me, I forwarded it to

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the White House. Not only have you not heard anything, I haven't heard anything either. I just wanted to say that there is some confusion about how do people apply. I don't think you're confused as NACIE. I'm not confused.

But I know that in changing from one administration to the other, people were, I think, left out. Tribal colleges and universities forwarded a number of recommendations for a TCU president or a connection to TCU to be on that. When I received that or anyone, that was forwarded on to the White House.

I'm hoping that in this next administration we'll have a very clear contact that can -- (audio interference.) -- that we know it's been sent. We have tracking, we can say they received it, it's being considered. I don't know what process could change, but that's just something I'd like to mention. It does come from the White House. However, when we receive recommendations we forward it to them.

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But I think a clear contact and clear tracking of where that recommendation goes would be really helpful. Angela, I don't know what we can do, but I think it should be not only be honored, but it should be just be respectful for people to know what the status of that is once it's been sent in.

MS. ANDERSON: This is Phyllis. May I speak?

DR. DENNISON: Sure, Phyllis, go ahead.

MS. ANDERSON: Basically what I had said previously is the recommendation that I had was sent to Ron. All I'm saying is that if you all would just let us know I've received your letter, thank you. Or I received your document, thank you, or something, that would be helpful. That's all I'm asking for because I know that it's very important that we get these vacancies - - it's not our duty to get the vacancies filled. I understand that.

I know that it's the president that has to make these nominations and so forth. I

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realize that. All I'm saying is that we have got so much work ahead for our Indian education. Sometimes I think we lose focus about that's what we're really here for. On the other hand, we're also asking to be provided documents and in a timely manner. I think that we've been waiting on an opinion since our last meeting and we haven't received that yet.

These are the things that I think are very important. The work we have to do is important, but it has to take all of us working together to get that work done. That's what's important to me, our work. I think a lot of the council members on here feel the same way. I assume that they do.

I think that one of the things that we need to really focus on is getting back into Indian education. That's what this report is about. I just want to thank everybody that played a big role in making that happen and so forth. Thank you for allowing me to speak.

DR. DENNISON: Thank you, Phyllis. Who

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else had their hand up? I think we've all had a chance to talk about this.

MS. BUTTERFIELD: I'm sorry, Deborah, there was another caller. Caller 6 had their speaker on. I don't know if they --

(Simultaneous speaking.) DR.

DENNISON: That's Phyllis. She was just on. Phyllis is Caller 6.

MS. BUTTERFIELD: There were two --

DR. DENNISON: I just want to thank everybody for their expressions on this topic. I totally agree with all of you that we do need to get this. I think that we, in many ways, put the cart before the horse, too, at the same time. I just want to thank everyone for their comment and thinking about the future.

There are so many unknowns. I just want to say that a large part of leadership, as you all know, I'm speaking to the choir here, is about relationship-building and about our approach and about talking about things in a way that is kind and respectful of the other person's

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thinking. I think that's where, if you want to know my perspective on sovereignty and all of this.

That's where we get in a lot of trouble. We want to say sovereign this, sovereign that, but yet we're not respectful in the way we approach sometimes. I just wanted to say that. It is really important work that we do, but it's also more important to understand the humanistic side of who we are as leaders and who we represent, which community we represent and which children who are the most neediest that we represent.

With that said, I guess there's no action item on this one, but just to --

(Simultaneous speaking.) DR.

PAYMENT: -- This is Aaron again.

DR. DENNISON: -- I just want to finish what I was saying.

DR. PAYMENT: Okay.

DR. DENNISON: I don't see it as an action item, but there are recommendations to

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continue with the bylaw work that might take action. I don't know if that requires an action item or just rescheduling the meetings and making that down with the committee and then going forward from there. What was your question, Aaron? Go ahead.

DR. PAYMENT: I don't want to be misinterpreted, so the only way I know to communicate is direct and honest. It's also just as disrespectful to be dismissive of this body and our expectations, and that's exactly the relationship we've had, whether it's through a change in staff or whatever the reason is.

The thing is, the only way I know to act is to call it out so we can move past it. Back home we have this historical trauma for the passive aggressive approach where we're never able to communicate and talk things out so that we can move forward. That doesn't work for me. I want to move forward. I think we are not at full strength as a body to advocate for Indian Country and for our children if we are not able

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to get past communications.

I don't mean to be disrespectful to anybody in my communication. I think that the record will show that we voted at a previous meeting to set a bylaws committee and to create an expectation for us to get going on those bylaws. There isn't any action that's needed at this meeting in order to do that. Unless somebody is bringing something forward to stop our efforts again, I think we will proceed.

Before we got into this lengthy discussion it sounded like that's what Julian understands we were going to do. If we can get our bylaws committee together like we did with the annual report meetings, because again we were told something different. We were told in writing the annual report, we were told that we couldn't even meet, that somehow that would be a FACA violation. We know now that's not true because we met for the annual report.

All we need to do is to continue to schedule bylaws meetings just like we did with

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these annual reports meetings, see how much we can get done. Let's proceed until we know otherwise. If we don't get reappointed or whatever, that's fine. At least we memorialized our efforts.

And then, whoever is going to be here in the new administration, my recommendation for the transition team as a tribal leader would be that we don't disrupt the valuable work we're doing and that we continue until such time the President might want to make different appointments, just like what we did with Secretary DeVos.

We were successful in doing that with her. I think we'll be successful to continue. Let's not pretend like we're stopping the bylaw process or that anybody's proposing to stop that.

It's in the minutes. We voted to create a bylaws committee to proceed on that. There doesn't seem like there's anything that would impede that based on what Julian presented at the very beginning.

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I think that is the most respectful way for us to proceed so we can walk through that and once and for all in our history finally get a set of bylaws approved.

DR. DENNISON: Thank you for that, Aaron. Did you have your hand up? I thought you did.

MS. WHITEFOOT: I have a question.

DR. DENNISON: Patsy does.

MS. WHITEFOOT: I have a question. Aaron, I think that it's important to have a time line just like we did with the report. Can we get a time line for that where we can set up a meeting?

DR. PAYMENT: I'm home-bound because of COVID. I think it's up to the other subcommittee members. I know Robin is one of the subcommittee members, I am. Who else was? Does anybody remember?

DR. JOHN: Me, I think.

DR. DENNISON: Virginia is on there I know, and Theresa, are you on there?

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(Simultaneous speaking.)

DR. JOHN: -- I think so.

DR. PAYMENT: -- Theresa, Virginia.

You know what we can do is as long as we're not running afoul of FACA, we can circulate so that anybody who wants to attend can attend in a listen only mode or whatever we have to do. Everybody will be permitted to communicate, just like we did with the annual reports.

I can do a list out. I'll do like a Doodle to see availability. It seems like the Fridays, other than Christmas Day, might be good.

Oh, what is the following Friday? New Year's Day? Yes, the following Friday is New Year's Day. So maybe not the next two weeks, but just get started on it and take a walk through and see what people think, and then bring back a report to the whole body. Maybe copy you on everything that we're doing each week that we're meeting.

And Julian, are you taking any vacation time?

MR. GUERRERO: No.

DR. PAYMENT: So we got you.

MS. WHITEFOOT: I just think that it would be helpful, though, Aaron, to have a date to have it completed. Because, we can't set up a meeting, it helps to then set up the meeting -- a date to be set up to meet --

(Simultaneous speaking.)

DR. PAYMENT: -- I agree. Do you want to pick a date of January, same time on a Friday? I'm optimistic. I think it's only going to take us one or two sessions total.

MS. WHITEFOOT: Right.

MS. BUTTERFIELD: Yeah, it works for me. First Friday in January after the first.

DR. PAYMENT: Yeah, 3:30 Eastern.

MS. THOMAS: Are we talking the 7th? The 7th or the 9th, right after New Year's?

DR. PAYMENT: The 8th.

MS. THOMAS: Oh.

DR. PAYMENT: Yes. The second Friday.

MS. THOMAS: What time?

DR. PAYMENT: 3:30. We blocked out the

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annual report, so that probably should be in people's schedules.

MS. THOMAS: Three-thirty in what time zone?

DR. PAYMENT: Three-thirty Eastern, 12:30 Patsy time.

DR. DENNISON: Does that work for you, Julian? Does that work for you, Julian?

MR. GUERRERO: I'm going to have to get back with you guys on email on that one. We're running out of time here.

DR. PAYMENT: Uh-oh.

DR. DENNISON: Yeah, we are running out of time.

DR. PAYMENT: We can do a Doodle, too. We can tentatively say the 8th at 3:30, but we'll do a Doodle, too.

DR. DENNISON: Okay.

MS. WHITEFOOT: You can add me to the committee, Aaron.

DR. PAYMENT: Okay. And we'll cc everybody on everything.

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MS. WHITEFOOT: Okay great, thank you.

DR. DENNISON: I know we're getting close to the 4:00. I know Julian has someplace to go.

DR. PAYMENT: And you have to public comment this time.

(Laughter.)

DR. DENNISON: We'll be happy to call for public comment. Do we have any public comments out there?

MS. WHITEFOOT: There's some background noise.

DR. DENNISON: Yeah. I just want to say yeah, somebody has background noise again. Julian is probably too shy to tell you this, but he earned his Master's Degree and he's graduating in about 30 minutes, so congratulations.

(Applause).

DR. DENNISON: Another accomplishment, another feather in Indian Country.

DR. PAYMENT: Yes, another educated Indian. Watch out.

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MR. GUERRERO: Thank you, thank you.

DR. JOHN: And you can celebrate after, eh?

MR. GUERRERO: Yes, definitely.

DR. DENNISON: I'll turn it back to you, Julian. I don't know if there's anything else we have to do before closing up besides the comments.

MR. GUERRERO: This is Julian Guerrero for the record. Nothing else to report out to the subcommittee work. We'll tackle this like we did with the annual report. Time is of the essence for us, again on the annual report as well. Typically we report in June. Let's set that milestone to report on time and really get this done. We have a lot of things to coordinate logistically on the back end.

The staff is committed to this work, we know you're committed to this work, and we're committed to this relationship and the journey. Like I said from the get-go, this is a journey and we're committed to having it together, so

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thank you.

DR. PAYMENT: Awesome.

DR. DENNISON: Do we have a motion to adjourn?

DR. PAYMENT: So moved, this is Aaron.

DR. JOHN: Second, this is Theresa.

DR. DENNISON: Second?

DR. JOHN: Theresa.

DR. DENNISON: Moved by Aaron and second by Theresa to adjourn. All in favor say aye.

(Chorus of ayes).

DR. DENNISON: I just want to wish everyone happy holidays, merry Christmas. Thank you for your thoughts and prayers. I pray for each of you, too, and your families. Have a good holiday season.

DR. PAYMENT: Stay safe everyone.

DR. DENNISON: We're adjourned.

(Whereupon, the above-styled matter went off the record at 3:57 p.m.)

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