

# Indiana Election Commission Minutes

April 17, 2020

**Members Present:** Paul Okeson, Chairman of the Indiana Election Commission ("Commission"); S. Anthony Long, Vice Chairman of the Commission; Suzannah Wilson Overholt, member; Zachary E. Klutz, member.

**Members Absent:** n/a

**Staff Attending:** Angela M. Nussmeyer, Co-Director of the Election Division; Andrew Lang, Co-General Counsel of the Election Division; Matthew Kochevar, Co-General Counsel of the Election Division

**Others Attending:** Members of the public

## 1. Call to Order:

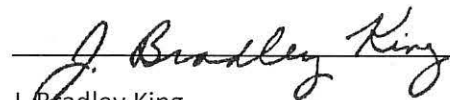
The chair called the April 22, 2020 meeting of the Commission to order at 12:00 p.m. EST online via a Zoom virtual meeting room that was moderated by Stewart Richardson and Associates.

## 2. Transaction of Commission Business:

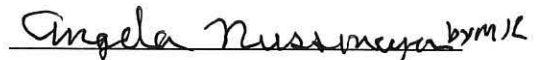
The Commission proceeded to transact business set forth in the Transcript of the Proceedings for this meeting prepared by Maria Collier of Stewart Richardson and Associates, which is incorporated by reference into these minutes.

The Commission adjourned its meeting at 12:26 p.m. EST.

Respectfully submitted,



J. Bradley King  
Co-Director



Angela M. Nussmeyer  
Co-Director

## APPROVED:



Paul Okeson, Chairman

## **In the Matter Of:**

*INDIANA ELECTION COMMISSION PUBLIC SESSION*

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### **Transcript of Proceedings**

*April 17, 2020*

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2 INDIANA ELECTION COMMISSION

3 PUBLIC SESSION

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7 Conducted on: April 17, 2020

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10  
11 Conducted Remotely via Videoconference

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15 A Stenographic Record by:  
16 Maria W. Collier, RPR, CRR

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22 STEWART RICHARDSON DEPOSITION SERVICES  
23 Registered Professional Reporters  
24 One Indiana Square  
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(317)237-3773

APPEARANCES

INDIANA ELECTION COMMISSION:

Paul Okeson - Chairman

S. Anthony Long - Vice Chairman

Suzannah Wilson Overholt - Member

Zachary E. Klutz - Member

INDIANA ELECTION DIVISION STAFF:

Angela M. Nussmeyer - Co-Director

Matthew Kochevar - Co-Counsel

Andrew Lang - Co-Counsel

1           CHAIRMAN OKESON: We'll recognize a quorum and  
2 call the meeting to order. This is the meeting of  
3 the Indiana Election Commission. The following  
4 commission members, as I just identified, are  
5 present: Myself, Chair Paul Okeson; Vice Chairman  
6 Anthony Long; Commission Member Suzannah Wilson  
7 Overholt; and Commission Member Zachary Klutz.

8           We have the Indiana Election Division staff of  
9 Andrew Lang, sitting in on behalf of Brad King and  
10 Valerie Warycha, and Co-Director Angie Nussmeyer  
11 and Co-Counsel Matthew Kochevar.

12           We have our court reporter, Maria Collier,  
13 from Stewart Richardson Deposition Services.

14           And this meeting is being conducted remotely,  
15 as you can all tell, via authority provided by an  
16 executive order, 20-04, which was signed by  
17 Governor Holcomb on March 16, 2020, and  
18 subsequently extended.

19           I don't know if any of you heard before we got  
20 started, I checked off with the court reporter, and  
21 as we speak as commission members, if you can just  
22 identify yourself -- what in the world?

23           (A member of the public displayed a sexually  
24 explicit image and was promptly removed from the  
25 meeting.)

1 CHAIRMAN OKESON: What is going on?

2 MR. KLUTZ: Were we just hacked?

3 MS. PATTERSON: A public member logged on and  
4 did that. I removed them as fast as I could.

5 CHAIRMAN OKESON: Okay. That was sufficiently  
6 disturbing.

7 VICE CHAIRMAN LONG: I hope it's not a  
8 harbinger.

9 CHAIRMAN OKESON: I can say that's a first.

10 So as I was saying, I was talking to the court  
11 reporter. As we begin the meeting and we identify  
12 ourselves, even as commission members, if you can  
13 just signal who you are. There's a little bit of  
14 lag time there, and to get the record correct, if  
15 you can just state this is Commissioner Overholt or  
16 this is Commissioner Long and so forth so she can  
17 keep track of that, that would be extremely  
18 helpful.

19 Unfortunately, as we just found out, this is a  
20 public meeting open to everyone, so we will try and  
21 keep all nonparticipating parties muted so that  
22 there's no background noise that interferes with  
23 the progress of the meeting.

24 I'd like to take a moment to just make a quick  
25 opening statement, and I'll ask my counterpart,

1 Vice Chairman Long, if he'd like to do the same, as  
2 we did last time.

3 But we're here today to approve an order that  
4 is the culmination of a lot of bipartisan  
5 negotiating and agreement and commitment, and I  
6 just, for one, want to continue to laud those  
7 efforts and just thank everyone involved. Both  
8 parties, both Chairman Hupfer and Chairman Zody,  
9 and members of the party and the Election Division  
10 staff have all really put in a lot of time --  
11 Secretary Lawson personally, a lot of time to  
12 really get to a place where we can agree on this  
13 and give Hoosier voters a sense of confidence in  
14 how we're going to approach the election in June.  
15 And I think whatever we walk away with today, we  
16 should all be proud of the way we've conducted  
17 ourselves in that regard. I look forward to future  
18 opportunities to collaborate as well.

19 With that, Vice Chairman Long, if there's  
20 anything you'd like to say. If not, we'll move on.

21 VICE CHAIRMAN LONG: Mr. Chairman, I'd like to  
22 say that I agree with you completely. We've had  
23 and observed a lot of negotiations. This approach  
24 has been extremely courteous. They've had many  
25 interchanges, we've discussed ideas, and I think

1 it's a classic example of what happens when people  
2 who may disagree philosophically on issues but  
3 don't become disagreeable, they're able to reach  
4 common ground, as we've done in this.

5 I think that not only the -- both staffs from  
6 the Election Division have been tireless in their  
7 work, far more than people will ever recognize, as  
8 to the number of drafts and thoughts and research  
9 and discussions that they've had with us. I want  
10 to laud the Secretary of State and her office for  
11 participating in this and the chairmen of both our  
12 parties.

13 This has been a tiring exercise, but it's been  
14 one that I think has resulted in a good product  
15 that we can all live with, recognizing that neither  
16 side has gotten all they wanted. But if all of our  
17 government units could operate the way this  
18 operation has in this situation, I think we'd be a  
19 lot further down the road to success in our state  
20 and party today.

21 So I'm proud to be a part of this, and I  
22 applaud you, Mr. Chairman, for the open way that  
23 you've conducted yourself during this and look  
24 forward to continue working with you.

25 CHAIRMAN OKESON: Thank you, Vice Chairman.



1           With that, we'll continue on with the agenda.  
2       As a matter of course, I'd like documentation of  
3       the meeting notice. Request the Election Division  
4       staff confirm that proper notice of this commission  
5       meeting has been established.

6           MR. LANG: I can confirm that.

7           CHAIRMAN OKESON: Co-Director Nussmeyer?

8           (No response.)

9           CHAIRMAN OKESON: I see she's on mute.

10       Without any objection, we'll recognize that as  
11       proper notice.

12       Moving on, we will deal with Order 2020-40.  
13       The Election Commission is meeting today to discuss  
14       an order that would provide further guidance to  
15       ensure the June 2, 2020, primary election will be  
16       conducted in the most orderly and accessible  
17       fashion and safe fashion possible based on the  
18       facts as we understand them today.

19       I move to adopt Order 2020-40, which has been  
20       posted on the Election Commission's web page for  
21       public scrutiny and review, which -- and, excuse  
22       me, on the Secretary of State's site as well and  
23       has been previously distributed to all the  
24       commission members. For purposes of discussion, is  
25       there a second to my motion?

1 MR. KLUTZ: So moved.

2 CHAIRMAN OKESON: I recognize Commissioner  
3 Klutz with a second.

4 This order will address several issues arising  
5 out of the Governor's order to suspend the statute  
6 setting the date of the primary as May 5, 2020, and  
7 rescheduling that election to June 2, 2020, as well  
8 as Election Commission Order 2020-37, which was  
9 adopted by this body on March 25, 2020. Today we  
10 consider Order 2020-40 to further address the  
11 following subjects related to the rescheduled  
12 primary election, and I will read these summaries  
13 aloud.

14 Section 1 readopts Order 2020-37 for an  
15 additional 30 days, so it is now set to expire  
16 May 24, 2020.

17 Section 2 allows any voter registered in  
18 Indiana to be nominated to serve as a poll worker  
19 if they are otherwise qualified to serve.

20 Section 3 advises that all public buildings  
21 that are statutorily mandated be available for a  
22 designation as a polling location for the primary  
23 election.

24 Section 4 states the Election Division will  
25 provide training and guidelines to counties

1 regarding best health practices.

2 Section 5 advises counties that they do not  
3 have "home rule" authority when conducting  
4 elections.

5 Section 6 provides early in-person voting  
6 begin Tuesday, May 26, 2020, and end at noon, on  
7 the prevailing local time, on Monday, June 1, 2020.

8 Section 7 provides a county election board can  
9 adjust central count for absentee ballots to at  
10 least one and not more than three locations, so  
11 long as one location is provided for every 50,000  
12 active voters. Furthermore, it provides any  
13 absentee ballots submitted without excuse between  
14 December 2, 2019, and not later than 11:59,  
15 Thursday, May 21, 2020, shall be accepted.

16 Section 8 provides vote center counties can  
17 alter voting locations after giving notice to  
18 voters and amending their vote center plan. There  
19 must be at least one vote center per 25,000 active  
20 voters calculated as of the May 4, 2020, voter  
21 registration deadline.

22 In precinct-based counties, the location of a  
23 polling place can be altered after notice is given.  
24 Additionally, county election boards are provided  
25 the opportunity to agree to locate the polls for a

1 precinct at the polls for an adjoining precinct.  
2 Furthermore, a county election board or board of  
3 elections and registration in a non-vote center  
4 county can establish additional earlier in-person  
5 voting locations.

6 Section 9 states that a county election board  
7 may notify a voter of a defective absentee ballot  
8 application or security envelope in order to  
9 provide the voter an opportunity to cure that.

10 Section 10 provides the Election Commission  
11 will hold a public hearing on April 22, 2020, to  
12 consider the methods and procedures necessary to  
13 implement a vote-by-mail election for the June 2,  
14 2020, primary election should the public health  
15 disaster emergency require such a change in  
16 election procedures.

17 At this hearing, pertinent matters related to  
18 state party conventions will also be covered.  
19 Furthermore, the Election Commission commits to  
20 holding an additional meeting in the month of May,  
21 prior to May 24, 2020, to consider an extension of  
22 Orders IEC 2020-37 and 2020-40, this order.

23 Section 11, this order is effective  
24 immediately upon passage.

25 I now recognize any members for discussion.

1 VICE CHAIRMAN LONG: Mr. Chairman.

2 CHAIRMAN OKESON: Yes, sir.

3 VICE CHAIRMAN LONG: I think you've adequately  
4 summarized this. I believe in our opening  
5 statements we recognized the success of the  
6 negotiations that's brought us to this point. I  
7 think that we brought forth standards that will be  
8 utilized and that we can do this in as safe a  
9 manner as possible and living up to our commitment  
10 to encourage absentee by-mail voting whenever  
11 possible for a multitude of reasons. And for that  
12 reason, I think this, as it's structured, is in the  
13 best interest of the State, and I intend to vote  
14 for it.

15 CHAIRMAN OKESON: Thank you, sir.

16 Any other comment?

17 MR. KLUTZ: None from me, Mr. Chairman.

18 MS. OVERHOLT: Not from me either,  
19 Mr. Chairman.

20 CHAIRMAN OKESON: So since we're doing this  
21 meeting via Zoom, I'll go ahead and just do this  
22 vote on this motion by roll call, if we can do it  
23 that way. Those in favor say "aye."

24 Vice Chairman Long?

25 VICE CHAIRMAN LONG: Aye.

1 CHAIRMAN OKESON: Commissioner Klutz?

2 MR. KLUTZ: Aye.

3 CHAIRMAN OKESON: Commissioner Overholt?

4 MS. OVERHOLT: Aye.

5 CHAIRMAN OKESON: The motion passes 4-0. The  
6 "ayes" have it, and the order is adopted.

7 I need consent from the commission members for  
8 the Election Division staff to sign this order with  
9 the signature stamps.

10 VICE CHAIRMAN LONG: I give my consent.

11 MR. KLUTZ: I give my consent as well.

12 MS. OVERHOLT: I give my consent as well.

13 CHAIRMAN OKESON: And I concur. So we'll see  
14 to it that is completed.

15 Do I understand that there's some other orders  
16 of business that need to be entertained before we  
17 adjourn?

18 VICE CHAIRMAN LONG: If we could very briefly,  
19 Mr. Chairman, we have passed a resolution today, an  
20 order, which encompasses two future meetings at  
21 least of our body. We have proposed and would like  
22 to propose some amendments that we can offer and  
23 summarize them. We would ask that, as we propose  
24 them, that they be published on the screen so that  
25 those in attendance can see what the content is and

1 that they would later be posted on the website for  
2 the division at least for perusal, to the extent  
3 anyone would want, for future consideration. And  
4 with your lead, we will start doing that and so we  
5 can do this as quickly as we can, which I don't  
6 think will take very long.

7 We would propose Amendment No. 1 to this  
8 order, a new paragraph D to Section 8. What this  
9 does and in summary form allows the county election  
10 board, if they unanimously agree, to petition the  
11 commissioner for relief under Section 8, the vote  
12 center plan, if it becomes unworkable within their  
13 county for any reason, and it provides a safety  
14 measure or stopgap measure that they could come  
15 forward for relief if such would happen. We would  
16 propose that to the commission at this point.

17 MS. OVERHOLT: And Amendment No. 2 would  
18 extend the deadline for requesting an absentee  
19 ballot by mail from 12 days before -- from 12 days  
20 to eight days before election day to give voters  
21 more time to apply for an absentee ballot. And  
22 this is consistent with the request that the  
23 respective state party chairs made to the Indiana  
24 Election Commission in their letter of March 13,  
25 2020.

1           This would -- the purpose of this amendment is  
2 to essentially recognize that the Postal Service  
3 may slow down -- the mails may slow through the  
4 Postal Service as a result of the pandemic and also  
5 allows greater flexibility in response to the  
6 current public health emergency.

7           VICE CHAIRMAN LONG: Mr. Chairman, we would  
8 propose Amendment No. 3. And 3 and 4, I would  
9 propose them both together or simultaneously, but  
10 one is an alternate to the other. Amendment No. 3,  
11 simply stated, extends the deadline for receiving  
12 of ballots, absentee ballots, until noon three days  
13 postelection, which would be Friday.

14           We have considered the issue, and some of the  
15 issues in other states that have dealt with this  
16 issue where postmarks were involved, we have  
17 discovered in our research and investigation the  
18 postmark issue, we don't believe, is viably  
19 available in Indiana because, as we understand,  
20 mass mailing or bulk mailing permits, they are sent  
21 out and returned with no postmark on them and would  
22 exclude any that the post office would  
23 inadvertently not date stamp by omission of their  
24 canceling equipment.

25           And as an alternative to that, Amendment No. 4



1 allows for the receipt of absent ballots during  
2 normal vote hours on election day. Basically the  
3 rule that we've passed, the order that we've  
4 passed, allow them to be delivered, where this  
5 amendment would propose, as an alternate to No. 3,  
6 that as long as they are delivered to the county  
7 election board designated spot before the end of  
8 voting on the election day, that they would be  
9 acceptable and would be counted or may be counted  
10 as the voter would be otherwise qualified.

11 MS. OVERHOLT: And Amendment 5 would give  
12 voters the opportunity to engage in -- well, during  
13 the in-person absentee voting period, would allow  
14 voters to vote via, for lack of a better term,  
15 curbside voting from their vehicles to a spot  
16 obviously designated. This would be in a  
17 designated area but would allow for the curbside  
18 voting, which is another mechanism to allow voters  
19 concerned about social distancing to be able to  
20 practice safe social distancing by voting from  
21 their vehicle.

22 Amendment 6 would require the Secretary of  
23 State and the Election Division to either mail an  
24 absentee ballot application to each registered  
25 voter in the state or to send a postcard to each

1 household with a registered voter with information  
2 on how to use the absentee ballot application  
3 portal on the Secretary of State's website. And  
4 this is intended to encourage as much by-mail  
5 voting for the primary election, which is  
6 consistent with the current CDC guidance as to the  
7 conduct of elections.

8 VICE CHAIRMAN LONG: That concludes the offers  
9 of proposed amendments for the commission to  
10 consider, Mr. Chairman.

11 CHAIRMAN OKESON: So permit me to make some  
12 comments, if you will. As we opened this meeting,  
13 we talked about how both sides had worked  
14 collaboratively together to get to the order we  
15 just passed. And my understanding is that much, if  
16 not all, of what's embodied in these amendments  
17 that you're offering were part of those  
18 negotiations. Correct?

19 VICE CHAIRMAN LONG: They were.

20 CHAIRMAN OKESON: And yet we came to some  
21 agreement and passed an order that did not contain  
22 the information that you're proposing in those  
23 amendments, which, forgive me, seems a bit  
24 disingenuous. So I'd maybe like a reaction from  
25 you as to how that came to be.

1           VICE CHAIRMAN LONG: The issue, in my mind in  
2 any event, has been -- and I'm not saying it's  
3 exclusively up to me or to my party -- has been  
4 that the public safety of the voters and the public  
5 safety and health concerns of the people that are  
6 going to have to conduct the election in our area,  
7 that this is such a critical issue because most of  
8 the poll workers -- and I have to assume they're  
9 similarly situated around the state -- are older  
10 people that are in a higher risk category, such as  
11 I am, or have health conditions, such as I do, and  
12 that we're doing our best to try to make the  
13 availability of mail-in voting more viable or  
14 published or publicized and utilized.

15           We're not asking and we in no way mean to  
16 denigrate the order that we have passed. We just  
17 would like to offer the amendments to you, have  
18 them considered, and that they would be a part of  
19 the record of our commission so that, as we go  
20 forward, we may continue to discuss and debate  
21 these issues.

22           And I would also say that there were a number  
23 of issues and we recognize that there were a number  
24 of issues that, Mr. Chairman, your negotiators in  
25 your party made concessions in and that we in no

1 way intended this to be disingenuous to the  
2 process, but merely to keep on the table for  
3 discussion issues that we think are important going  
4 into the future.

5 CHAIRMAN OKESON: Well, I thank you for that.  
6 You know, this obviously puts a challenge for me.  
7 All the hard work that's gone into the order that  
8 we just passed and Chairman Zody and Chairman  
9 Hupfer and Secretary of State Connie Lawson have  
10 all -- the Election Division staff on both sides of  
11 the aisle worked diligently and exceedingly well on  
12 behalf of voters and taxpayers in Indiana to  
13 produce the order we just passed. So I will tell  
14 you that, if a motion is made, I will vote no on  
15 all of these amendments.

16 VICE CHAIRMAN LONG: I would so move that they  
17 be considered and respect your vote and respect and  
18 receive your comments in the spirit in which they  
19 were offered.

20 CHAIRMAN OKESON: So I have a motion. Is  
21 there a second?

22 MS. OVERHOLT: Second.

23 CHAIRMAN OKESON: Any further discussion?

24 VICE CHAIRMAN LONG: I have none.

25 CHAIRMAN OKESON: Hearing no other, we'll do a

1 roll call vote.

2 Vice Chairman Long?

3 VICE CHAIRMAN LONG: Aye.

4 CHAIRMAN OKESON: Commissioner Klutz?

5 MR. KLUTZ: No.

6 CHAIRMAN OKESON: Commissioner Overholt?

7 MS. OVERHOLT: Aye.

8 CHAIRMAN OKESON: As I stated earlier, I will  
9 vote no.

10 The motion fails. I would conclude -- or  
11 before we conclude here, I would say that having  
12 these items being brought up, it causes me to  
13 question in my mind the need for a meeting on the  
14 22nd. So I will take that back and have some  
15 further discussions with all parties, but it seems  
16 in many ways to have preempted the need for that  
17 meeting.

18 With that, I'll say the Election Commission  
19 has finished its business for the day. Is there a  
20 motion for the commission to adjourn?

21 VICE CHAIRMAN LONG: Mr. Chairman, I would  
22 tell you that I believe -- I intend to make a  
23 motion to adjourn, but in response to your last  
24 comment, I believe the order of the commission that  
25 has been unanimously passed has called this

1 meeting, and I believe that the April 22nd meeting  
2 and the one before May 24th are established and  
3 cannot be unilaterally vacated without the  
4 unanimous consent of the commission.

5 But with that comment, I would move that we  
6 adjourn our meeting.

7 CHAIRMAN OKESON: We'll see to that.

8 I have a motion to adjourn. All those in  
9 favor?

10 MR. KLUTZ: Aye.

11 VICE CHAIRMAN LONG: Aye.

12 MS. OVERHOLT: Aye.

13 CHAIRMAN OKESON: Hearing none opposed, the  
14 meeting is adjourned. Thank you.

15 VICE CHAIRMAN LONG: Thank you, Mr. Chairman.  
16 Thank you, Zach and Suzannah and staff and Maria.  
17 Good job.

18 CHAIRMAN OKESON: Yes. Thank you. Thank you  
19 all. Have a good rest of the day and a good  
20 weekend, if you can manage that.

21 VICE CHAIRMAN LONG: That's social distancing.  
22 I thought about wearing my mask today, but I didn't  
23 think that the virus could get through our  
24 electronics.

25 CHAIRMAN OKESON: Well, as much as I disagreed

1 with your amendments, it was certainly the right  
2 image to end on compared to what we started with.  
3 So with that, I'll bid you a good weekend.

4 (The Indiana Election Commission Public  
5 Session was adjourned at 12:26 p.m.)

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1 STATE OF INDIANA

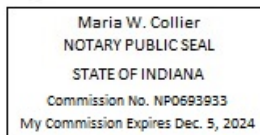
2 COUNTY OF HAMILTON

3 I, Maria W. Collier, a Notary Public in and  
4 for said county and state, do hereby certify that the  
5 foregoing public session was taken at the time and  
6 place heretofore mentioned between 12:00 p.m. and  
7 12:26 p.m.;

8 That said public session was taken down in  
9 stenograph notes and afterwards reduced to typewriting  
10 under my direction; and that the typewritten  
11 transcript is a true record of the public session;

12 IN WITNESS WHEREOF, I have hereunto set my  
13 hand and affixed my notarial seal this 20th day of  
14 April, 2020.

15 *Maria W. Collier*



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20 My Commission expires:  
21 December 5, 2024

22 Job No. 152522

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<hr/> <b>1</b> <hr/>	<hr/> <b>7</b> <hr/>	<b>alternative</b> 14:25
<b>1</b> 8:14 9:7 13:7	<b>7</b> 9:8	<b>amending</b> 9:18
<b>10</b> 10:10		<b>amendment</b> 13:7,17 14:1,8,10,25 15:5,11,22
<b>11</b> 10:23	<hr/> <b>8</b> <hr/>	<b>amendments</b> 12:22 16:9,16,23
<b>11:59</b> 9:14	<b>8</b> 9:16 13:8,11	<b>applaud</b> 6:22
<b>12</b> 13:19		<b>application</b> 10:8 15:24 16:2
<b>13</b> 13:24	<hr/> <b>9</b> <hr/>	<b>apply</b> 13:21
	<b>9</b> 10:6	<b>approach</b> 5:14,23
<hr/> <b>2</b> <hr/>	<hr/> <b>A</b> <hr/>	<b>approve</b> 5:3
<b>2</b> 7:15 8:7,17 9:14 10:13 13:17	<b>absent</b> 15:1	<b>April</b> 10:11
<b>2019</b> 9:14	<b>absentee</b> 9:9,13 10:7 11:10 13:18,21 14:12 15:13,24 16:2	<b>area</b> 15:17
<b>2020</b> 7:15 8:6,7,9,16 9:6,7,15,20 10:11,14,21 13:25	<b>acceptable</b> 15:9	<b>arising</b> 8:4
<b>2020-37</b> 8:8,14 10:22	<b>accepted</b> 9:15	<b>attendance</b> 12:25
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