

APPEAL STATEMENT OF BEVERLY HIGH SCHOOL
SUBMITTED TO THE
NEW ENGLAND ASSOCIATION OF SCHOOLS AND COLLEGES

Submitted by:
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November 29, 2005

PRELIMINARY STATEMENT

In the pages that follow, Beverly High School (“BHS”), with the support and assistance of the Beverly Public Schools and the Office of the Mayor of the City of Beverly, submit the following statement of appeal of the decision of the Commission on Public Secondary Schools (“Commission”) of the New England Association of School and Colleges (“NEASC”), recommending the termination of the accreditation of BHS. We respectfully request the Appeals Committee recommend to the Board of Trustees that the Commission’s adverse recommendation be remanded to the Commission for reconsideration of this case and that, should that not happen, the NEASC’s Board of Trustees deny the recommendation of the Commission that the accreditation of BHS be terminated.

We recognize that we have not yet resolved all of the Commission’s concerns regarding our High School facility and that there are some specific recommendations that we have not fully addressed. However, it is clear that the City of Beverly has overcome the economic and political obstacles that prevented full resolution of our facility issues at BHS. Admittedly, those obstacles inhibited progress for a critical two-year period (2002 & 2003). However, since that time, BHS and the City of Beverly have moved forward in a prudent manner, taking steps that should certainly qualify as “reasonable progress” toward meeting the Standard on Community Resources for Learning.

We submit that Beverly High School successfully met the Standards on Curriculum and Instruction (Report of the Visiting Committee, March 2000) and continues to meet both standards despite the shortcomings of the facility. Furthermore, we suggest that the Commission has not demonstrated their contention that the current condition of the BHS facility has a negative impact upon the learning and work environment such as to warrant termination of accreditation. Quite to the contrary, the data on student achievement and quality of instruction exemplify a successful educational program for the students of Beverly. The perception in our community that BHS provides a high quality education is unmistakable and is justified by the academic success of our students and staff. Highlights of that data are important in understanding Beverly High School.

- Approximately 88% of our students go on to either two- or four-year colleges.
- Two (2) National Merit Scholarship Semi-Finalists in the past three years (2004, 2006). The student recognized in 2004 went on to become a National Merit Scholarship Finalist and received the \$2,500 scholarship. We are awaiting word on this year’s student.
- National Merit Scholarship Commended Students
 - 2004 – Five students recognized
 - 2005 – Two students recognized
 - 2006 – Five students recognized
- Average SAT scores Class of 2004 (82% of seniors take the SAT)

	<u>Verbal</u>	<u>Math</u>
○ BHS	529	525
○ State	518	523
○ National	508	518
- AP Scholar with Honor Award – three students recognized in 2005
- AP Scholar Award – ten students recognized in 2005

- MCAS 2005 – 70% Advanced and Proficient in ELA; 76% Advanced and Proficient in Mathematics (Massachusetts is generally considered to be among the states promoting the highest academic standards in the nation)
- Only high school in the *Boston Globe North* area (37 schools) to make significant progress moving students from proficient to advanced in BOTH Math and ELA MCAS. One of only a handful of high schools in the state to make significant progress on the MCAS for five (5) years in a row. BHS qualified to become a Commonwealth Compass School, which recognizes significant instructional improvement over several years.
- 71 BHS 2005 seniors were awarded John & Abigail Adams Scholarships. This scholarship is for free tuition at any state college or university. Based on student MCAS scores, the student must have an Advanced score on either Math or ELA MCAS and high Proficient on the other and also must be in top 25% total number of students who took the MCAS in the district.
- Opportunities for students: thirteen Advanced Placement courses; award winning Music Program; state recognized excellence in our Performing Arts program; nationally recognized Art students; state and national qualifiers in our DECA program; five foreign languages and foreign exchange programs – newest edition is upcoming exchange with a high school in Moscow, Russia; over 20 clubs and activities for students; school-to-career internships.
- Staff recognition – Six teachers certified under the National Board of Professional Teaching Standards; Massachusetts 2004 American History Teacher of the Year; MASCD 2004 Mentor Teachers of the Year; Virtual High School AP Physics Teacher; Massachusetts Wal-Mart 2005 Teacher of the Year; three teachers published in nationally recognized journals

The community of Beverly recognizes the value of having its high school measured against the standards promoted by NEASC. The standards are thorough and reflect high expectations, and the ongoing process of self-examination brings an important focus to school improvement. The objectivity, fairness, and consistency with which NEASC deals with schools in the New England region will only enhance the public perception of the work of the NEASC, the standards it promotes, and the quality of our schools. It is that objectivity, fairness, and consistency that we seek through this appeal. We respectfully submit that NEASC's effectiveness will be strengthened through granting this appeal.

EVIDENCE AND ARGUMENT

A. The Commission departed from the procedures established by written policy or agreement or recognized custom so significantly as to affect materially the Commission's adverse recommendation.

In a letter to the Beverly High School Principal in October 2000, Dr. Pamela Gray-Bennett, Director of the Commission on Public Secondary Schools, conveyed the Commission's position after reviewing the Report of the Visiting Committee (March 2000). Among the commendations were the following:

- The enthusiasm, dedication, and competence of the staff at Beverly High School
- The willingness of the teachers and administrators to participate in the process of realigning and revising curricula under less than ideal circumstances
- The wide range of school-to-career and community service opportunities
- The faculty's commitment to modifying teaching models to fit the block schedule and to conform to the state curriculum frameworks
- The authentic and varied assessments and variety of instructional strategies which are evident throughout the building
- The implementation of teaming in the ninth grade
- The variety of opportunities given to students to demonstrate and apply their knowledge
- The willingness of some teachers to pursue professional training on their own and to remain current with research on instructional approaches
- The development of course syllabi to explain expectations and assessment procedures to the students and parents
- The English, science, and foreign language departments to assess achievement in stated academic expectations.

The only other mention of curriculum and instruction in this letter appeared in the details requested for information for the standard Two-Year Progress Report, due in October 2002. Dr. Gray-Bennett's letter went on to state, however,

"Given these [cited facility] deficiencies, the Commission voted to place the school on warning for the Standard on Community Resources for Learning"

As a result, it was requested that BHS provide a Special Progress Report, specifically aimed at facility concerns, within eight months. Given this communication from the Commission, it is proper to conclude that BHS met both standards on Curriculum and Instruction.

In January 2003, the Commission voted to defer action on the Two-Year Progress Report pending a directed visit by a Commission member and a Commission staff member

"to gain a clearer understanding of the negative impact of the facility on teaching and learning as well as health and safety concerns and infrastructure needs."

Only Dr. Gray-Bennett participated in that directed visit.

Subsequently, at the request of Dr. Gray-Bennett, then BHS Principal William Foye wrote a letter in March 2003 to the Commission providing a detailed account of "how the facility of Beverly High School has a negative impact on educational programs." On April 3, 2003, we were notified that the Commission

“... voted to recommend to the Board of Trustees of the Association that the school be placed on probation because of significant deficiencies in its adherence to the Commission’s Standards for Accreditation on Curriculum, Instruction, and Community Resources for Learning.”

In May 2003, then Superintendent of Schools Dr. William Lupini wrote to the Commission indicating that the school would not “show cause” as to why the Commission’s recommendation should not be implemented.

In a letter dated May 15, 2003, Edmund Higgins, then Chair of the Commission, wrote to the Board of Trustees regarding the recommendation for probation. The letter cites the Two-Year Progress Report and the Directed Visit. There is no mention of Principal Foye’s March 2003 letter. While there is considerable detail given to support probation for the Standard on Community Resources for Learning, no evidence is provided to support probation for the Standards on Curriculum and Instruction. The only mention whatsoever is a statement that “the deteriorating condition of Beverly High School... has a significant impact on teaching and learning.” In a letter dated May 16, 2003 to Principal Foye, the Board of Trustees placed BHS on probation for failing to adhere to the standards on Curriculum, Instruction, and Community Resources for Learning.

In the summer of 2003, a new BHS Principal, Dr. Carla Scuzzarella, asked Dr. Gray-Bennett how it was that BHS moved from meeting the Standards on Curriculum and Instruction to being placed on probation for the same standards. The response from Dr. Gray-Bennett was that if our facility was on probation, then, by definition, curriculum and instruction automatically were on probation. Again, there was no mention of Principal Foye’s March 2003 letter or any other information that would substantiate curriculum and instruction concerns. In responses to a Special Progress Reports (December 2003 and August 2004) Dr. Gray-Bennett makes no mention of Principal Foye’s March 2003 letter or any other information that would substantiate curriculum and instruction concerns. There is only the tacit assumption that an inadequate facility must mean that curriculum and instruction are also inadequate. When asked by School Committee President Judith Cronin in a meeting on September 13, 2005, Dr. Gray-Bennett confirmed the viewpoint that if our facility was on probation, then, by definition, curriculum and instruction automatically were on probation.

In July 2005, BHS was notified of the adverse recommendation from the Commission to terminate the High School’s accreditation, following a review of its Five-Year Progress Report (March 1, 2005).

1. The Commission added the Standards on Curriculum and Instruction to that of Community Resources for Learning when it changed the accreditation status of BHS from Warning to Probation. Commission staff maintained that when a school moves to probation status for Community Resources for Learning, the school automatically goes on probation for the Standards on Curriculum and Instruction.

Since Principal Foye submitted his letter in March 2003, providing a detailed account of “how the facility of Beverly High School has a negative impact on educational programs,” there has never been any request in any communication from the Commission nor from Dr. Gray-Bennett to provide any update on what progress BHS has made in resolving the issues raised in his letter. There has never been any

specific evidence from the Commission nor Dr. Gray-Bennett to substantiate that BHS does not meet the Standards for Curriculum and Instruction. For over two years, there has been the simple unsupported assumption that for a school to go on probation for its facility deficiencies, probation for the Standards of Curriculum and Instruction must naturally follow.

The chart that follows tells a different story. The evidence shows that there is no consistent pattern of linking probation for Community Resources for Learning with the standards of Curriculum and Instruction. Of the twenty-four schools currently on probation, twenty of them are cited for Community Resources for Learning. Only eight of those schools, however, are also on probation for the Curriculum and Instruction Standards. Of the remaining twelve schools, eight are only cited for the Curriculum Standard, two are only cited for the Instruction Standard and two have neither Curriculum nor Instruction associated with their probation status.

School	Location	Date on Probation	Standard			
			CRL	C	I	Other
Bethel High School	Bethel CT	3/04	*	*	*	
Parish Hill High School	Chaplin CT	12/02	*	*	*	*
Plainfield High School	Central Village CT	12/00	*	*	*	
Athol High School	Athol MA	9/03	*	*	*	*
Auburn High School	Auburn MA	5/03	*	*	*	
Beverly High School	Beverly MA	5/03	*	*	*	
Haverhill High School	Haverhill MA	9/99	*	*	*	
Sanborn Regional High School	Kingston NH	5/00	*	*	*	
Killingly High School	Danielson CT	12/03	*	*		*
Nokomis Regional High School	Newport ME	9/03	*	*		*
Penobscot Valley High School	Howland ME	5/05	*	*		
Bridgewater-Raynham School	Bridgewater MA	3/05	*	*		*
Southbridge High School	Southbridge MA	5/05	*	*		*
Uxbridge High School	Uxbridge MA	5/04	*	*		
Chariho Regional High School	Wood River Junction RI	3/01	*	*		
Mount Pleasant High School	Providence RI	12/04	*	*		*
Woburn High School	Woburn MA	12/01	*		*	
Brattleboro Union High School	Brattleboro VT	12/00	*		*	*
Crosby High School	Waterbury CT	5/01	*			*
Hartford Public High School	Hartford CT	12/97	*			
Wilby High School	Waterbury CT	3/02		*	*	*
B.M.C. Durfee High School	Fall River MA	9/02		*	*	*
Central Falls High School	Central Falls RI	5/05		*	*	*
Johnston Senior High School	Johnston RI	12/00		*		*

We respectfully submit that the Commission has departed from the procedures established by written policy, agreement, and/or recognized custom by including the Standards on Curriculum and Instruction as a basis for decision-making and, in doing so, have significantly affected the Commission's adverse recommendation.

2. The Commission continues probation status based upon the Standards on Curriculum and Instruction without providing specific evidence from the Commission nor from Commission staff to substantiate that status and despite evidence from BHS that the school meets the Standards for Curriculum and Instruction.

In the more than two years since Principal Foye submitted his letter in March 2003, there has never been any request in any communication from the Commission nor from Dr. Gray-Bennett to provide any update on what progress BHS has made in resolving the issues raised in his letter, which detailed “how the facility of Beverly High School has a negative impact on educational programs.” Neither the Commission nor Dr. Gray-Bennett have provided any specific evidence to substantiate the probation status based on the Standards for Curriculum and Instruction.

In a letter dated July 7, 2005, BHS was notified of the adverse recommendation from the Commission to terminate the High School’s accreditation, following a review of its Five-Year Progress Report (March 1, 2005) and given the opportunity to “show cause” why the Commission should not forward such a recommendation.

In preparing the “show cause” response, we kept being drawn back to a central question, “On what basis does the Commission make the claim that the High School does not meet the Standards on Curriculum and Instruction?” Any notion that the two standards should simply accompany the Standard on Community Resources for Learning into probation represented flawed logic. We reject such a line of thinking. We thus determined that the only basis one could reasonably point to was the March 2003 letter from Principal Foye, which detailed his view of the impact of the facility on the educational program, but which was never brought into the discussion between BHS and the Commission.

In our ‘show cause’ response dated August 24, 2005, we wrote the following:

“The High School responded to these recommendations in the Five-Year Progress Report. The Commission’s response to this report addressed Curriculum and Instruction in only two aspects. First, Beverly High School received twenty-two commendations from the Commission [many of which related to curriculum and instruction, as well as the facility]...

The only other Commission response to Curriculum and Instruction appeared at the conclusion of the July 7th letter. It was an expressed lack of confidence “that teaching and learning conditions at the high school are adequate and safe in the short term.” Given no other evidence from the Commission to support this claim, we can only infer that there continues to be a belief by the Commission that the conditions expressed in Principal Foye’s March 2003 letter continue to exist. The Commission has never specifically requested that we provide an update relative to those conditions. However, the great majority of those conditions have been addressed and no longer impact teaching and learning.

Principal Foye had organized his response through four directions:

- The facility jeopardizes health and safety because:
- The facility limits or negatively impacts on what is taught (the curriculum) because:
- The facility limits or negatively impacts on how lessons are taught (instruction) because:
- The facility negatively impacts on the mission of Beverly High School because:

While his report contained 115 statements of concern, you will see that many of the concerns are often repeated several times. With that noted, our response shows that 106 statements **(92%) have been resolved and no longer show an impact on teaching and learning.** The remaining nine statements of concern are identified in our response with the word “PARTIAL”, indicating that either the issue is only partially resolved or that one aspect of the stated issue remains to be resolved...

This thorough update demonstrates the diligence that Beverly High School has paid to correcting curriculum and instructional issues related to our facility. Again, the claim that “the vast majority of the facilities problems that originally prompted warning and probation remain” is simply not true.”

Responding to our “show cause” document, neither Dr. Gray-Bennett’s letter to BHS Principal Scuzzarella nor Commission Chair Martin Gray’s letter to the Board of Trustees made one mention of this success. Instead, the Standards for Curriculum and Instruction continued to be identified as standards not met. Dr. Gray-Bennett’s October 3rd letter merely states that

“... there are a number of [facility] concerns of which the Commission has judged to have a negative impact on teaching and learning.”

Dr. Gray-Bennett has frequently communicated that a school needs to demonstrate “reasonable progress.” Under most measures of success, 92% completion is seen as “reasonable progress.” And if there are other indicators by which BHS is being measured, the Commission has never made them known to us.

We respectfully submit that the Commission has departed from the procedures established by written policy, agreement, and/or recognized custom by including the Standards on Curriculum and Instruction as a basis for decision-making and, in doing so, has significantly affected the Commission’s adverse recommendation.

3. The Commission has not established any recognized custom in the time periods given to correct identified deficiencies prior to termination of accreditation.

Beverly High School was placed on warning in October 2000 and placed on probation in May 2003. Should the Board of Trustees terminate its accreditation in March 2006, BHS will have been on warning approximately two and one-half years and on probation for nearly three years. This is a total of five and one-half years from the point of warning the school about its facility deficiencies to the point of loss of accreditation. The time period relating to the Standards on Curriculum and Instruction would be even less, three years.

According to Dr. Vincent L. Ferrandino, quoted in *The Boston Globe*, May 19, 1995, termination of a school’s accreditation “is a very, very rare occasion that has taken place no more than a handful of times in more than 100 years.” In fact, Dr. Gray-Bennett testified in a deposition dated February 21, 1996, that during her tenure from 1987 through the date of the deposition, either three or four schools had been terminated.

The disparity between the Commission’s treatment of BHS and its treatment of all other schools cannot be explained by the time period provided to remedy identified concerns. The timeframe for BHS has been more constricted than for other schools that have lost accreditation. We have been able to find the following information relative to placement on warning, placement on probation, and termination of accreditation:

- Stevens High School, Claremont NH, was on probation for four and one-half years before losing its accreditation (placed on probation in November 1986; accreditation terminated March 1991)
- Jeremiah E. Burke High School, Boston MA, was on warning for four years and was on probation for two years before losing its accreditation (placed on warning in 1989, placed on probation in 1993; accreditation terminated May 1995)
- Lawrence High School, Lawrence MA, was on warning for four years and was on probation for four more years before losing its accreditation (placed on warning in 1989, placed on probation in 1993; accreditation terminated May 1995 because of “a mountain of shortcomings”)

Of the twenty high schools currently on probation for the Standard on Community Resources for Learning, nearly half of them (nine) have been on probation for a longer period of time, and a tenth school has been on probation for an equal time period.

School	Location	Date on Probation	Standard			
			CRL	C	I	Other
Hartford Public High School	Hartford CT	12/97	*			
Haverhill High School	Haverhill MA	9/99	*	*	*	
Sanborn Regional High School	Kingston NH	5/00	*	*	*	
Brattleboro Union High School	Brattleboro VT	12/00	*		*	*
Plainfield High School	Central Village CT	12/00	*	*	*	
Chariho Regional High School	Wood River Junction RI	3/01	*	*		
Crosby High School	Waterbury CT	5/01	*			*
Woburn High School	Woburn MA	12/01	*		*	
Parish Hill High School	Chaplin CT	12/02	*	*	*	*
Auburn High School	Auburn MA	5/03	*	*	*	
Beverly High School	Beverly MA	5/03	*	*	*	

The disparity between the Commission’s treatment of BHS and its treatment of all other schools cannot be explained by the number of standards violated by BHS. Since the Commission has made it clear that by correcting the issues related to the Standard on Community Resources for Learning the probation status for Curriculum and Instruction will disappear, BHS realistically has failed in only one of the seven standards used to assess the school.

The Jeremiah E. Burke High School failed eight of the ten standards for accreditation. Among the schools currently on probation, four high schools have been on probation longer and for more standards than BHS. Brattleboro Union High School has been on probation since December 2000 for four standards, Parish Hill High School has been on probation since December 2002 for four standards, Wilby High School has been on probation since March 2002 for four standards, and B.M.C. Durfee High School has been on probation since September 2002 for five standards. Haverhill High School and Plainfield High School have been on probation for approximately two years longer than BHS for the very same standards, and Johnston Senior High School has been on probation since December 2000 for three standards.

We respectfully submit that the Commission’s adverse recommendation to terminate Beverly High School’s accreditation is inconsistent with its demonstrated practice of giving schools and communities years in which to correct identified problems.

4. By terminating the accreditation of Beverly High School prematurely, the Commission has departed from its customary practice of placing deficient schools on probation and monitoring their progress, with the common goal of improving secondary education for member schools. It has also departed from the Commission's established practice of allowing short-lived changes and events to determine long-term decisions.

Dr. Gray-Bennett has stated that removing a school's accreditation as a first response to a failure to meet the Commission's standards would leave the Commission with "no way of helping the school to improve" since the school would no longer be a member of NEASC and would not be subject to the timetables set for monitoring improvement. Continued involvement by the Commission, working with Beverly High School, is the best way to ensure that the public high school students of Beverly receive a high quality education. A decision to terminate its accreditation ends this partnership and serves no good purpose for our shared goal of improving the education provided.

The premature nature of this adverse recommendation is made even more troubling because it fails to take into account circumstances beyond the control of Beverly High School and the Beverly Public Schools. As noted previously in our Preliminary Statement, economic and political obstacles in 2002 and 2003 inhibited progress toward correcting our facility issues at BHS. For that two-year period, the Mayor's administration and Beverly City Council were unable to identify and agree upon a reasonable alternative to deal with our facility deficiencies. Simultaneously, economic and political realities in the Commonwealth of Massachusetts fueled the City's inability to act. In a memorandum dated February 11, 2003, the state's Commissioner of Education notified school and municipal officials across the state that

"Given this situation, I have decided to impose a moratorium on any further review or approval of pending construction applications. I expect this moratorium to last until at least the end of this fiscal year. We will re-evaluate the situation after the FY04 state budget is enacted... If your district cannot proceed with the proposed project without state financial assistance, you may want to suspend the current planning and design work."

A decision to continue BHS on probation and closely monitoring its progress toward resolution of the facility issues reflects the Commission's standard practice and demonstrates in all good fairness that decisions to terminate accreditation are not an accident of bad timing, political change, and economic hardship beyond the control of the school system and the local community. The Commission's conclusions fail to acknowledge that the Commonwealth of Massachusetts has closed down its program of school building assistance until 2007, especially in light of the school's academic standing.

We respectfully submit that the Commission's adverse recommendation to terminate Beverly High School's accreditation is inconsistent with its demonstrated practice of placing schools on probation and closely monitoring their progress toward resolution of identified issues and continuous improvement of secondary education. Likewise, we submit that a decision to terminate accreditation for BHS would be premature and would be a departure from the Commission's established practice of providing sufficient time such that the bad timing of short-lived political and economic difficulties are not the major factor in the loss of accreditation.

5. The Commission has departed from its established practice of not telling the school community how to resolve its facilities issues.

The letter October 3rd of Dr. Gray-Bennett to BHS contains statements that are often communicated to the school and community.

“The Commission has never told a school community how to resolve its facilities problems, nor has it directed the town (sic) of Beverly how to resolve the facilities deficiencies of Beverly High School. It is a local decision whether to build a new school, to renovate the existing school, or to address facilities needs through a combination renovation/construction project.”

Through several means of communication, BHS, the Beverly Public Schools, and the City of Beverly have communicated a position that is best reflected by the statements below excerpted from the August 2005 “show cause” correspondence.

“As stated previously, we will without question take whatever steps are necessary to guarantee the health and safety of the teaching and learning environment at Beverly High School. If certain other improvements (i.e., replace windows or refurbish science labs) were transferable to a new facility, we would take those steps. We have specifically asked that question and learned that such work is not transferable. Under those circumstances, no reasonable organization would invest significant funds into such projects when the end product will be demolished in four years.”

Beverly has a plan for replacing cloudy windows and refurbishing science labs. By its persistence in demanding that these issues be corrected now, the Commission is in fact telling the school community how to correct these deficiencies. The only alternative to our plan is to replace the windows now and renovate the science labs now. To do so and demolish the end product in a short four years makes no sense to this school community.

Similarly, the Commission continues to demand that we correct a “worn and slippery floor in the field house.” We agree that the floor needs replacing. We do not, however, agree that the floor poses a safety hazard as “worn and slippery” implies. We maintain the floor regularly by stripping and resealing it. There would be no reimbursement from the state if we were to replace the floor now. Since the project will be expensive and since the floor has not shown to be a health or safety issue, we have decided that this will be accomplished as part of our major construction/renovation project, allowing us to receive the much needed state reimbursement. Again, since replacing the floor now is the only alternative to our plan, the Commission is in fact telling the school community what to do and when to do it.

We respectfully submit that the Commission has departed from its established practice of not telling the school community how to resolve its facilities issues.

B. The Commission cited factually incorrect information as a basis for its decision and which is of such significance as to affect materially the Commission's adverse recommendation.

The Commission has based its decision to recommend termination of Beverly High School's accreditation on factually incorrect information. The July 7th and October 3rd letters from Dr. Gray-Bennett in which the Commission announces and reaffirms its recommendation to terminate accreditation contain a number of incorrect statements, the totality of which are quite significant.

There are several factual errors in the following statement taken from the October 3rd letters from both Dr. Gray-Bennett and Commission Chair Martin Gray.

"After significant review and discussion of the school's show-cause correspondence, the Commission affirmed its decision to recommend that the school be terminated from membership in the Association for failure to demonstrate reasonable progress resolving facilities deficiencies originally identified in the decennial evaluation report and through Commission visits to the school, a number of concerns of which the Commission has judged to have a negative impact on teaching and learning as well as health and safety implications."

1. Failure to demonstrate reasonable progress resolving facilities deficiencies

The facilities issues originally identified in the decennial report (October 2000) include the following:

- a. Develop and begin to implement a long-range facility plan to address the deteriorating condition of the facility, the infrastructure, and instructional equipment
- b. Immediately address all health and safety issues cited [list of issues was provided]
- c. Develop and begin to implement a long-range technology plan which includes the provision of full internet access in all computer labs, an increased number of computers in classrooms for instructional use, and appropriate technical support for technology
- d. Develop and begin to implement a plan to ensure the upper gym and girls' locker room are handicapped accessible
- e. Immediately desist the practice of padlocking doors leading to the athletic fields

Everything that was requested in this list was corrected in a very reasonable time frame, with two exceptions. The long-range facility plan did not begin to take shape until 2003; however, it is now developed and underway. Such a plan must necessarily include certain infrastructure issues, such as outdated science classrooms and electrical conduits and plumbing built into underground slabs. Additionally, one item on the list of health and safety issues, the replacement of "cloudy windows," was done in only a portion of the building and has not been continued throughout the building, being seen as an improvement that should be included in the construction/renovation project. All of the improvements were well documented in the Special Progress reports submitted since the decennial report.

In a letter from the Commission dated April 3, 2003, the Commission further identified forty infrastructure and health and safety concerns regarding Beverly High School. In the August 2005 "show cause" correspondence, we informed the Commission that,

"Of the forty facility issues cited, thirty-three (83%) have been addressed, are not jeopardizing health and safety, and are not impacting teaching and learning. Of the remaining seven conditions, we have made progress in addressing five, and only two conditions have not been addressed. We have addressed issues involving heating,

ventilation, access to electricity and technology, plumbing, water infiltration, and ceiling and floor tiles.”

We provided the Commission with specific details on this progress. Nevertheless, the October 3rd response from the Commission did not acknowledge this progress and stated that we had failed “to demonstrate reasonable progress resolving facilities deficiencies originally identified in the decennial evaluation report.” The letter went on to introduce new facility issues never previously cited and continued to repeat as issues ones which we had already demonstrated resolution. For example, Dr. Gray-Bennett continued to cite heating and ventilation issues as well as water flooding issues despite these having been corrected in the 2003-04 school year and despite our repeated corrections of her use of inaccurate information. In our August 2005 “show cause” correspondence, we wrote the following:

“There has been no occurrence of flooding since 2003... Your response to our Five-Year Progress Report concluded by citing a number of issues, some of which ... have been resolved. Specifically, we have... not experienced issues in over two years with ... building flooding...”

In a meeting on September 13, 2005, we explained to Dr. Gray-Bennett that in 2003 the drains and catch basins intended to control flooding were cleaned and have been properly maintained ever since. We reiterated that there has been no flooding since 2003. Nevertheless, in her October 3rd letter, Dr. Gray-Bennett expressed this concern:

“... the lack of evidence that water flooding problems have been permanently resolved in the section of the facility that is below grade...”

Having just completed the wettest October on record in Massachusetts and experiencing no flooding should finally end discussion of this issue.

The shifting from one set of facility issues to new ones and the repeated failure to acknowledge demonstrated progress will later serve as evidence and support for our claim of bias.

2. Negative impact on teaching and learning

The evidence and arguments presented previously in reference to inclusion of the Standards on Curriculum and Instruction have bearing here as well. (See the information provided in section A.2 on page 6.) Our “show cause” document of August 2005 provided great detail to show that 92% of the issues raised by Principal Foye on this topic in 2003 were no longer issues for BHS. Neither Dr. Gray-Bennett’s letter to BHS Principal Scuzzarella nor Commission Chair Martin Gray’s letter to the Board of Trustees made one mention of this success. Instead, Dr. Gray-Bennett’s October 3rd letter merely states that “... there are a number of [facility] concerns of which the Commission has judged to have a negative impact on teaching and learning.” This seems in contradiction with her comments in an article published in *The Boston Globe* on October 12, 2005:

“Academic achievement is not the issue with Beverly,” said Pamela Gray-Bennett, director of the agency’s secondary schools commission.”

Dr. Gray-Bennett has frequently communicated that a school needs to demonstrate “reasonable progress.” A completion rate of 92% completion is “reasonable progress.” Yet this success is not

acknowledged, and the mistaken image that teaching and learning at BHS is substandard continues to serve as a basis for decision-making without foundation.

Furthermore, a negative impact on teaching and learning should be reflected in student achievement. Any investigation of such a claim should surely seek out such data. Neither the Commission nor its Director has conducted such an investigation. We provided such data in our August 2005 “show cause” correspondence and provided such information in our introduction to this document. There is no mention of this documented success in the responses from Dr. Gray-Bennett or Commission Chair Martin Gray. We strongly suggest that the Appeals Committee examine the information on this topic. It presents a picture of a school that is successfully preparing students with a high quality education. BHS is a strong academic institution, providing our students with an excellent and diverse educational program and high quality teachers, despite a physical structure that clearly needs improvement.

Further evidence of this level of success continues to be achieved and will be provided as data in our presentation of “new evidence” being prepared and submitted separately. However, we would be remiss if we did not comment here on statements made in the October 3rd letters by Dr. Gray-Bennett and Commission Chair Martin Gray. Specifically,

“Through their repeated delays in committing to and acting on a solution and through their decision to repair only those systems that fail and only improve space that is transferable to a renovated facility the school system and the town (sic) have subordinated the educational needs of high school students and neglected their needs. The result is a pervasive culture of low standards for the learning and work environment, low expectations, and tolerance of an outdated and severely worn physical plant with conditions that affect every occupant, adult and student, in the day to day working and learning in the building.”

To make a judgment about the culture of Beverly High School without speaking to one student, one teacher, one parent, or visiting the school for more than a few hours is unconscionable. To make a judgment about the effects on every occupant without talking to even one occupant reflects research efforts of the lowest scale. To make a judgment about the expectations for learning without collecting any information on student achievement is irresponsible. The language is inflammatory and insulting and has no place in what should be an objective treatment of the issues.

Again, this repeated failure to acknowledge demonstrated progress and to make unsupported claims will also serve as evidence and support for our position that bias has been introduced to this process.

3. Commission visits to the school

Dr. Gray-Bennett and Mr. Gray indicated that the conclusion that BHS failed to demonstrate reasonable progress resolving facilities deficiencies were identified through “Commission visits” to the school. This point needs clarification. The Commission did not make visits to the school. In fact, other than one member of the Commission (at our request, not directed by the Commission) spending three hours to meet with several school and City officials at BHS and tour the school on September 13, 2005, no member of the Commission has spent any time inside Beverly High School in the five years since the

Report of the Visiting Committee was issued and the Commission placed BHS on warning. Only the Director, Dr. Gray-Bennett, has spent time in the facility. As such, she has served as the “eyes and ears” of the Commission, and, other than our written submissions, it is her perceptions that are conveyed to the Commission.

While touring the facility on September 13th, Dr. Gray Bennett had opportunities to speak with students and staff and to observe teaching and learning activities. She did not take advantage of any of those opportunities, instead focusing her attention solely on facility issues.

4. Health and safety implications

BHS and the Beverly community have addressed and will continue to address any and all health and safety issues in the school. In August 2005 we responded to the Commission’s concern, concluding

“The report cited as evidence the recent structural failure and the contention that the facilities problems that originally prompted warning and probation still remain. To the contrary, we believe the complete set of evidence demonstrates that we have made reasonable progress addressing identified concerns, and certainly we have done so when it comes to health and safety. We have not merely “studied and restudied.” We have taken action. **We will continue to take whatever steps are necessary to guarantee the health and safety of the teaching and learning environment at Beverly High School.**”

As will be discussed later in this document, approximately \$2,600,000 in capital improvements has been put into the BHS facility since 2003, much of which has gone to address health and safety issues. The most recent major projects involved replacement of the field house roof, structural repairs to all column joints, correcting water infiltration problems with the structural columns, and replacing the stage rigging and curtains in the auditorium. The Commission acknowledged our progress to date in dealing with these health and safety issues.

The same October 3rd letter then went on, however, to state the following:

“The Commission is aware that school and city officials have reported that there are no outstanding health and safety concerns at Beverly High School. The Commission disagrees. The inordinate number of egresses (85) from the building pose security and supervision challenges, the lack of handicapped accessibility puts individuals with disabilities at risk and at a disadvantage especially during an emergency, the original equipment public address system (identified in 1997 as needing replacement) that requires continued repair is undependable, use of extension cords poses a tripping hazard, electrical cords from the inordinate use of fans in hot weather pose a safety threat, the worn and slippery floor in the field house is unacceptable, and broken furniture is dangerous. The overall lack of cleanliness also poses a threat to student and faculty health.”

For the first time, a number of new “health and safety concerns” are being raised. These include: the inordinate number of egresses (85); the use of extension cords; electrical cords from the inordinate use of fans in hot weather; broken furniture; the overall lack of cleanliness. Our submission of “new evidence” will address these issues, and, for the greater part, will refute with testimony and pictures that they pose a health and safety threat to our students and staff.

Furthermore, “health and safety concerns” previously addressed and resolved are brought back into the discussion without any evidence that conditions had changed. Specifically,

- “the lack of handicapped accessibility puts individuals with disabilities at risk and at a disadvantage especially during an emergency” – We agree that handicapped accessibility is a challenge to those who attend our school. Nevertheless, students with a variety of physical disabilities attend our classes regularly and effectively evacuate the building during an emergency. Included with our “new evidence” submission will be the following letters:
 - Data developed from our building evacuation drill records as well as a letter from the local Fire Department indicating the success of evacuation drills
 - A letter from the Building Inspector for the City of Beverly indicating that we are in compliance with ADA requirements. The Commission has already acknowledged receiving this letter in October 2001, noting “the submission of evidence of compliance with AAB and ADA regulations,” but now chooses to resurrect this claim.
 - A letter of support from Mark Carlson, Executive Director of Beverly School for the Deaf. BSD students and staff have attended Beverly High School for the past two years.
 - A letter of support from Robert Gass, Executive Director of the Northshore Education Consortium. The Consortium conducts classes in four rooms at Beverly High School.
- “the original equipment public address system (identified in 1997 as needing replacement) that requires continued repair is undependable” – It is inaccurate to describe the system as “undependable.” Any repairs are made promptly. Repair records and a letter from the service company, will be submitted as “new evidence” and will attest to this. Other than the repairs indicated, the system has served the school on a consistent basis.
- “the worn and slippery floor in the field house is unacceptable” – The field house floor has recently been stripped, and we have applied four coats of a new sealer specially made for this type of floor. A review of the school’s accident reports over the past eight years by the district’s Head Nurse shows that no accidents have resulted from the condition of the field house floor. A memo to this affect will be included in “new evidence.”

The previous discussion of “failure to demonstrate reasonable progress resolving facilities deficiencies”, “negative impact on teaching and learning”, “Commission visits to the school”, and “health and safety implications” was introduced through this quote in the October 3rd letters from both Dr. Gray-Bennett and Commission Chair Martin Gray.

“After significant review and discussion of the school’s show-cause correspondence, the Commission affirmed its decision to recommend that the school be terminated from membership in the Association for failure to demonstrate reasonable progress resolving facilities deficiencies originally identified in the decennial evaluation report and through Commission visits to the school, a number of concerns of which the Commission has judged to have a negative impact on teaching and learning as well as health and safety implications.”

We respectfully submit that the Commission has cited factually incorrect information through these and related statements as a basis for its decision and that the use of this information is of such significance as to affect materially the Commission’s adverse recommendation.

5. Timeline for the construction/renovation project

The October 3rd letters from both Dr. Gray-Bennett and Commission Chair Martin Gray contain the following paragraph.

“Further, the timeline for the approval of funding and construction continues to change and be pushed forward. Most recently, for example, in the school's Special Progress Report submitted in September of 2004 school officials indicated that the earliest date that Beverly High School students could benefit from an updated facility would be September 2008. Then, in the school's show-cause response dated August 24, 2005 school officials indicated "a second vote of the City Council will be taken in mid 2006 to approve full funding for the project." In an interview on September 20, 2005, however, the mayor indicated that such a vote would not likely take place until the early fall of 2006. The constant moving forward of the date for approval of funding is problematic because it means that, at the earliest, it will be the 2009-2010 school year at which time students will be in an appropriate facility, and there is no guarantee that the project will actually come to fruition, potentially pushing the timeline forward even further.”

This information is incorrect. We have always contended a July 2007 start date for construction. The Special Progress Report submitted in August (not September) 2004 restates the joint resolution unanimously passed by the Beverly City Council and the Beverly School Committee. It states, in relevant part,

“Be it resolved that... City Council and School Committee complete the requirements for application to the School Building Assistance Program, including design development and secure funding, for the new academic wing by July 2006 with construction to commence by July 2007.”

We acknowledge, however, that the Report goes on to say

“Mayor Scanlon is confident that we will be ready to report to the Commission in detail on this plan by April/May 2005. The intent would be to commence construction by July 1, 2006, with construction to be completed in a twenty-four month period. This aggressive timeline calls for completion of the project by the 2008 school year.”

This aggressive scenario, however, was an alternative option being explored by the Mayor to possibly get us to a new facility in a faster timeline. But it was believed that this could only happen if we could educate all high school students in a different location. A study of this possibility was conducted, and the idea was found to be not feasible and was dismissed.

The “show cause” response dated August 24, 2005 did indicate “a second vote of the City Council will be taken in mid-2006 to approve full funding for the project.” However, the full statement made in that letter is as follows:

“A second vote of the City Council will be taken in mid-2006 to approve full funding for the project, with the intention to begin construction in July 2007.”

The Commission contends that “In an interview on September 20, 2005, however, the mayor indicated that such a vote would not likely take place until the early fall of 2006”. This meeting, actually held on September 13th, not the 20th, included Dr. Scuzzarella, BHS Principal, Dr. Hayes, Superintendent of Schools, Mayor William Scanlon, School Committee President Judith Cronin, Dr. Gray-Bennett, and Commission Member Paul Daigle. The relevant part of the discussion involved the Mayor requesting of Dr. Gray-Bennett that the school remain on probation until the Beverly City Council could take a vote on full funding of the construction/renovation project. Mayor Scanlon suggested several scenarios but he did in fact ask that the Commission “Give us a year.” and a year from September 13th is certainly “early fall”. The Mayor was attempting to buy any time he could to comfortably achieve a City Council vote. At no

time was there any discussion about changing the start date for construction, July 2007. There has not been a “constant moving forward of the date for approval.” It has consistently been viewed as taking place at some time during mid-2006.

6. No guarantee that renovation/construction project will come to fruition

The previously cited paragraph from both Dr. Gray-Bennett’s and Commission Chair Martin Gray’s letters state that “there is no guarantee that the project will actually come to fruition, potentially pushing the timeline forward even further.” In Dr. Gray-Bennett’s letter of July 7, 2005, she stated this claim as follows:

“Unfortunately, neither the approval of monies to fund the design of construction plans, the confidence of school officials in the eventuality of a renovated high school that includes construction of a new academic wing, the intention of the current mayor to commit monies from a targeted revenue source, nor work on the facility to date provide the Commission or the students and educators at Beverly High School with a guarantee that the renovation/construction project will come to fruition, let alone come to fruition in a timely fashion.”

It is thus acknowledged that design funds have been approved (\$3,600,000) and that the Mayor has a plan to target several revenue sources for funding of the plan (without an override being necessary). The City of Beverly would not commit that amount of money to a project and then abandon the project. The Commission’s conclusions fail to give proper credit to the City’s financing of the design of the new building.

Dr. Gray-Bennett also knows that the Massachusetts School Building Authority (MSBA) has established that future school construction projects will be prioritized based on a specific set of criteria and that, of the top three priority circumstances, Beverly qualifies for two of them. Specifically, the top priority, health and safety, and the third priority, threatened loss of accreditation, are issues for BHS. Dr. Gray-Bennett has received letters from Katherine Craven, Executive Director of the MSBA, and Timothy Cahill, State Treasurer and Chairman of MSBA, to emphasize Beverly’s high priority status. In the words of Mr. Cahill,

“Pursuant to the law that created the Authority in 2004, any application for a facility that constitutes “an immediate health and safety threat” to students and teachers would be prioritized for funding assistance by the Authority. Based on this standard, Executive Director Craven has determined that Beverly High School will be among the schools prioritized in the Authority’s Needs Survey process.”

It should also be noted that through the local election on November 8, 2005, “Across all races – for mayor, City Council, and School Committee – candidates who backed building a new academic wing at the high school won and won by comfortable to wide margins.” (*Beverly Citizen*, November 10, 2005) Mayor Scanlon won his election over a candidate who did not support construction of a new academic wing. The six City Councilors who previously voted for the \$3.6 million in design funds were re-elected, and a seventh new Councilor who also supports the project has been added to the Council. All four newly elected School Committee members support building a new academic wing.

We acknowledge that a vote on full funding of the high school project has not taken place. It will take place in 2006, and we will begin construction in July 2007. To imply that there is uncertainty about this project moving forward is not supported by the facts.

We respectfully submit that the Commission has cited factually incorrect information through its contention that “the timeline for the approval of funding and construction continues to change and be pushed forward”, through statements implying uncertainty for project approval, and through related statements. Using this incorrect and misleading information as a basis for its decision is of such significance as to affect materially the Commission’s adverse recommendation.

7. School and city officials have failed to act on the urgency to resolve facilities deficiencies through building repairs

Two paragraphs in Dr. Gray-Bennett’s October 3rd letter are in need of clarification.

“In November 2003 it was also reported to the Commission that the mayor had set aside \$2.3 million to start high school repairs, yet such funds have not been put into facility improvements since 2003 given the fact that in 2003 the mayor reported that “the city has invested nearly \$2 million in repairs and upgrades in the building in the last few years” and in its most recent report the school confirmed that to date only \$2.6 million in total has been committed to building repairs.”

“The Commission has concluded that school and city officials have failed to act on the urgency to resolve facilities deficiencies at Beverly High School. Through ... their decision to repair only those systems that fail and only improve space that is transferable to a renovated facility the school system and the town (sic) have subordinated the educational needs of high school students and neglected their needs.”

In a letter to Dr. Gray-Bennett dated March 13, 2003, then Mayor Thomas Crean noted,

“The City has invested nearly \$2 million in repairs and upgrades in the building in the last few years. The most recent addition to the list of repairs is \$335,650 spent to replace the boilers, and much of the related plumbing, in 2002. This has resulted in marked improvement in the heating problems that plagued certain areas of the building. Other repairs have included roofs, corridors, track rehabilitation, doors, and rehabilitation of the Patten wing of the building. All of this has resulted in significant improvement in the learning environment.”

Included in the “show cause” correspondence of August 2005 were the following statements.

“The response to our Five-Year Progress Report claimed, “the school community has delayed committing required funds for identified problems.” In truth, the City alone has directed nearly \$2.6 million over the past three years to improve conditions at the high school. And the school district’s buildings and grounds department has made concerted efforts to improve the condition of the facility.”

Dr. Gray-Bennett appears to be claiming some inconsistency in our remarks. The remarks are not inconsistent and in fact point to an even greater investment of funds in repairing and maintaining the BHS facility. Our “show cause” correspondence does not say, “to date only \$2.6 million in total” as Dr. Gray-Bennett claims; it says “the City alone has directed nearly \$2.6 million over the past three years”. The three years referenced are the 2003-2005 years. And this is only what the City has committed; the

school system has contributed to improvements as well. We presented our comments in this way because budgeting records in the school system and in the City prior to 2003 do not give us the ability to specifically define the projects and amounts expended.

Mayor Crean's remarks in 2003 clearly point out that the most recent improvement was in 2002. At that point, his estimate was that the City had already invested \$2 million in repairs. While we have no ability to document his statement, there is also no reason to doubt it. Thus, one could reasonably conclude the truth is much closer to the City having spent \$4.6 million to date, meaning since the school was originally placed on warning in 2000. And again, that does not include improvements conducted by the school system itself.

Moving forward, we have assured the Commission that we will continue to take whatever steps are necessary to guarantee the health and safety of the teaching and learning environment and ensure an adequate facility at Beverly High School. We do not simply wait for systems to fail and we are committed to addressing health and safety issues, but we also acknowledge that major improvements that are not transferable to a newly constructed facility or not covered by MSBA reimbursements, such as replacing cloudy windows and the field house floor and major renovations to our science classrooms, will be deferred to become part of the approved construction project.

We respectfully submit that the Commission has cited factually incorrect information through its contention that "school and city officials have failed to act on the urgency to resolve facilities deficiencies" through building repairs and through related statements. Clarification of these claims demonstrates that this information is incorrect and misleading and, when used as a basis for the Commission's decision, is of such significance as to affect materially the Commission's adverse recommendation.

8. There has been no debate over... the fact that [facilities deficiencies] have an impact on teaching and learning.

Beverly High School's "show cause" response in August 2005 clearly engages in a debate over this premise. In fact, more than seventeen of the documents twenty-five pages speak to this very issue. And while Dr. Gray-Bennett's October 3rd letter in response to our comments acknowledges some of the facility improvements we noted, she goes on to write,

"On May 9, 2003 the superintendent of schools informed the Commission that Beverly High School had chosen not to show cause why the recommendation for probation should not be forwarded to the Board of Trustees, ipso facto indicating the inability of school officials to submit new information contradicting the existence of the cited concerns. In sum, there has been no debate over the existence of longstanding and significant facilities deficiencies at Beverly High School or the fact that they have an impact on teaching and learning."

Two related aspects that lie underneath all the Commission documentation on this topic are crucial to understanding the issues involved. One aspect is the failure on the part of the Commission or Dr. Gray-Bennett to seek any update to the information provided by Principal Foye in his March 2003 letter. In the earlier examination of this topic (see comments on "negative impact on teaching and learning" on page 12), we indicated that as of August 2005, 92% of the issues raised had been corrected

and that the Commission had expressed no other specific concerns to support this claim. It seems apparent, however, that while no mention had ever been made of this letter since March 2003, it was a major basis for the Commission and the Director to conclude there was an impact on teaching and learning.

Secondly, there is an assumption made in Dr. Gray-Bennett's statements about the motives of then Superintendent William Lupini when he chose not to show cause why the recommendation for probation should not be forwarded to the Board of Trustees. When Dr Gray-Bennett writes "ipso facto indicating the inability of school officials to submit new information contradicting the existence of the cited concerns," a line is being drawn to say that we can never contest the reasons for the probation recommendation. Regarding "the existence of longstanding and significant facilities deficiencies", Superintendent Lupini had no long-range plan to correct conditions at BHS, given the fact that the Beverly City Council had recently voted against authorizing funding for schematic design of the new academic wing. In May 2003, Dr. Lupini was well into the two-year period 2002-2003 described previously (page 9 of this document) as "the bad timing of short-lived political and economic difficulties." He had no plan to offer to show cause on this point, given the recent vote by the Beverly City Council.

As for debating the impact of the facility on teaching and learning, Dr. Lupini chose the only path he could, given that he had no plan to address the deficiencies. The conditions present and the impact on teaching and learning at the time were valid. However, we certainly did not then forfeit our right to improve on these conditions and report that the impact on teaching and learning had been greatly diminished, as we have done.

We respectfully submit that the Commission has cited factually incorrect information through its contention that "there has been no debate over... the fact that [facilities deficiencies] have an impact on teaching and learning" and that when used as a basis for the Commission's decision, this premise is of such significance as to affect materially the Commission's adverse recommendation.

C. Bias on the part of the Commission's professional staff prejudiced the evaluation or other review of the institution's status of affiliation, such bias being of such significance as to affect materially the Commission's adverse recommendation.

Since the inclusion of bias can be a particularly "charged" basis for appeal, it is important at the outset of this argument to define what we mean. Bias is a personal and sometimes unreasoned judgment that when introduced to a process encourages or influences one course of action over another. The events of this accreditation process since the Commission's July 2005 response to our Five-Year Progress Report, specifically demonstrated through communications, public comments, and actions by Dr. Gray-Bennett and which are then reflected in her written responses on behalf of the Commission, constitute the introduction of bias into the decision making process. We consider this bias to be of such significance as to affect materially the Commission's adverse recommendation.

In late July 2005, the Beverly Public Schools publicly released Dr. Gray-Bennett's July 7th letter outlining the Commission's response to our Five-Year Progress Report. That letter informed the district and the community about the adverse recommendation. An article on August 4, 2005, in the *Beverly Citizen* newspaper, contained the following commentary:

"From our perspective, curriculum and instruction can be taken off the table," Hayes said, citing 22 commendations handed down in the report.

"We wouldn't agree with that," Gray Bennett countered, saying the problems with the physical building are severe enough to be affecting teaching and learning at the school. "If you look at our letter, the next to last paragraph talks about outdated science classrooms and poor heat regulation."

There are two problems with this. First, Dr. Hayes has stated his opinion about the "show cause" response that he will develop and is reassuring a nervous public with his statement. Dr. Gray-Bennett on the other hand is making a judgment, one that is expressed before there has been any look at the "show cause" response from BHS. Even more troubling is Dr. Gray-Bennett's use of "poor heat regulation" as a key piece of evidence when she already knew or should have known that heat regulation issues were completely resolved in 2004.

On the same day, an article on this topic appeared in the *Salem News* newspaper. It quotes Dr. Gray Bennett as saying "way too little, way too late." The inference taken by readers as well as school and city officials from this remark was that it would be fruitless to appeal or "show cause," that the Director's mind was already made up. The opinion is widely shared that while she does not vote on the Commission decisions, she has a great deal of influence. As noted previously in this document, she has been the "eyes and ears" of the Commission throughout this process.

The article continued to quote Dr. Gray-Bennett:

"We've been pushing the community to solve the problem of deplorable conditions in its school," she said. "There's been no debate in terms of the nature of the problem... but once we identify the problems, we expect the school to address them. The problem here is the community has chosen not to put any money into the building, and it's been years and it will be years."

This comment reflects a personal judgment, i.e., "not chosen to put any money into the building" and "it's been years and it will be years." which are counter to the facts and again convey an opinion made before

hearing an appeal. One would reasonably have expected comments to be more open to hearing from the district in its “show cause” response.

A third portion of this same article also concerns us.

“For the community of Beverly to allow these conditions and do nothing about it is surprising”... It takes money,” she said. “What I think is amazing is that this happened in Beverly. Most communities that have facilities problems solve them. Most pay attention to our warnings and pay attention when we say something needs to be addressed. It’s not as though it’s northern Maine, where there’s no money, “ she said. “Even in northern Maine, they find a way. But this is Beverly. I’m astounded.”

Clearly, there is a bias here that communicates that Beverly has the financial resources to solve its problems. It was to address this bias that we included the comments, shown below, in our “show cause” correspondence.

“Approval of this [construction/renovation] plan is made even more significant because of the economic situation that Beverly is experiencing. In order to balance the school budget for 2004-05, the full time equivalent of 42 positions were cut, primarily in grades K-8. Only after cutting 25 more positions and closing one of our two middle schools did we achieve a balanced budget for 2005-06. Again, much of the cuts were at the K-8 levels, clearly demonstrating the intent to preserve the excellent instructional program at Beverly High School.

There is a perception that Beverly is a community of relative wealth, and that the financial means to address our facility issues has always resided in Beverly. Those who live in Beverly, however, have a different understanding. We have a wide demographic span in the City. There is a large elderly population living on fixed incomes and over 20% of our students qualify for free and reduced lunches. As a city, it is necessary to provide more services than what is found in most towns. Our state aid was cut by \$3 million three years ago and had been level funded until a slight increase provided for 2005-06.

Beverly does not possess unlimited construction dollars. There is no ability to conduct major renovations to the current academic wing and still find the money to construct a new high school. A proper renovation of the High School would cost us the same amount of money as the current renovation/construction project. When this was made apparent to the school community, the decision to pursue the current project rather than completely renovate the facility was made easy.”

Despite submitting these comments, there is little confidence that the bias of Dr. Gray-Bennett on this topic is swayed, nor that she would desist in having it influence future discussions about the community’s ability to solve its facility problems.

On October 31, 2005, the *Salem News* published an override history for the communities north of Boston. Its source was the Massachusetts Department of Revenue and the 2000 Census. This data shows that the perception that Beverly is one of the wealthier communities north of Boston is unfounded.

Community	Overrides Requested	Passed	Failed	Household Median Income
Boxford	46	25	21	\$113,212
Topsfield	16	8	8	\$96,430
West Newbury	11	2	9	\$92,828
Wenham	6	5	1	\$90,524
Andover	1	0	1	\$87,683
Middleton	12	2	10	\$81,395
North Reading	10	0	10	\$76,962
Georgetown	4	2	2	\$76,260
Newbury	14	6	8	\$74,836
Marblehead	15	8	7	\$73,968
Manchester	9	7	2	\$73,467
North Andover	7	1	6	\$72,728
Hamilton	30	17	13	\$72,000
Swampscott	1	1	0	\$71,089
Groveland	17	8	9	\$69,167
Rowley	52	12	40	\$62,130
Danvers	0			\$58,779
Merrimack	8	1	7	\$58,692
Newburyport	0			\$58,557
Ipswich	5	3	2	\$57,284
Peabody	0			\$54,829
Beverly	0			\$53,984
Amesbury	2	2	0	\$51,906
Rockport	4	4	0	\$50,661
Haverhill	0			\$49,833
Methuen	0			\$49,627
Salisbury	22	7	15	\$49,310
Gloucester	0			\$47,722
Salem	0			\$44,033
Lawrence	4	0	4	\$27,983

Lest there be any doubt about whether or not Dr. Gray-Bennett is quoted accurately by the two newspapers, Dr. Hayes sent a letter to her dated August 15, 2005, with the following statements:

“I continue to hear concerns about your comments in two recent newspaper articles. I am faxing them to you for your review. I know how newspapers sometimes get statements wrong or take things out of context. I would greatly appreciate hearing from you as to the accuracy of these articles in quoting you.”

In a subsequent phone conversation, Dr. Gray-Bennett confirmed the accuracy of the articles.

To make the judgment that there is a “pervasive culture of low standards for the learning and work environment,” to make a judgment that there is a “pervasive culture of ... low expectations,” and to make these statements without substantiation demonstrates a bias on the part of Dr. Gray-Bennett in her representing the position of the Commission. Only bias can explain how claims such as these can be made without speaking to one student, one teacher, one parent, visiting the school for more than a few hours, and without collecting any information on student achievement.

This document has already pointed out a number of instances in which Dr. Gray-Bennett and, through her written communications, the Commission, have failed to acknowledge demonstrated

progress. For example, she continues to cite the school's ADA compliance, flooding issues, heat and ventilation issues, the intercom system, and recommendations contained in the decennial report when there has been evidence presented to show that these have been corrected. In addition, misleading statements, as pointed out in this document, continue to be presented. When specific facility issues are corrected, there is a pattern of providing new "evidence" to justify the same claim. Some of this "new evidence" borders on the absurd, e.g., "the inordinate use of fans in hot weather," "tired and worn chalkboards," and "mismatched classroom furniture." Dr. Gray-Bennett claims "the presence of rusted window blinds in classrooms" when the truth is that this condition exists in only one classroom, the chemistry lab and is likely due to the long time use of chemicals in that space.

This pattern of unreasoned judgment has the distinct appearance of being promoted for only one reason – to justify a conclusion that Dr. Gray-Bennett is unwilling to change. The intent is to justify terminating accreditation for Beverly High School, regardless of what new information is brought to the discussion. Again, while Dr. Gray-Bennett does not vote on the Commission decisions, she has a great deal of influence and has served as the "eyes and ears" of the Commission throughout this process.

We respectfully submit that bias on the part of the Commission's professional staff has prejudiced the evaluation and other review of Beverly High School's accreditation and that such bias is of such significance as to affect materially the Commission's adverse recommendation.

D. The adverse recommendation is of an arbitrary and capricious nature.

An adverse recommendation is demonstrated to be arbitrary and capricious when it is shown that there is an absence of a rational connection between the facts found and the decision made, when a judgment is made without reasonable grounds or adequate consideration of the circumstances. We have shown through the presentation of evidence and argument that the Commission departed from the procedures established by written policy or agreement or recognized custom, the Commission cited factually incorrect information as a basis for its decision, and that bias on the part of the Commission's professional staff has prejudiced the evaluation and other review of Beverly High School's accreditation. These circumstances, taken separately and as a whole, are so significant as to affect materially the Commission's adverse recommendation. Thus, we have shown that the Commission's adverse recommendation is arbitrary and capricious.

CONCLUSION

It is clear that Beverly High School, the Beverly Public Schools, and the City of Beverly have overcome the economic and political obstacles that prevented full resolution of our facility issues at BHS. We have moved forward in a prudent manner, taking steps that should certainly qualify as “reasonable progress” toward meeting the Standard on Community Resources for Learning. We submit that Beverly High School successfully met the Standards on Curriculum and Instruction and continues to meet both standards despite the shortcomings of the facility.

The evidence provided in our “show cause” document clearly indicates that the vast majority of the issues that originally prompted warning and probation have been addressed. We are demonstrating a commitment to addressing health and safety needs and have made great strides in addressing the impact of the facility on teaching and learning. Curriculum and instruction, having met the NEASC’s standards in 2000, is even better today than it was five years ago. And that success is achieved despite the condition of the facility, which frankly is better than it was five years ago. Beverly is providing an excellent educational program in a High School facility that is both safe and healthy.

The school community has committed significant funds for identified problems at the High School, ensuring that teaching and learning conditions are adequate and safe in the short term. While the facility is nearing the end of its useful life, the City of Beverly has made a significant commitment toward a construction/renovation project that begins in July 2007, creating a high school facility that will serve Beverly for decades to come. We regret having our High School on probation, but this community is now on track to resolve that situation, taking the only rational course of action available to it.

The Commission’s decision to recommend terminating the accreditation of Beverly High School was based on a specific set of circumstances that the Commission believed were unresolved. A thorough reading of our “show cause” document and this appeal demonstrates that, in fact, a great many of those issues have been resolved. There is not a rational connection between the reality that is Beverly High School and the adverse recommendation to terminate accreditation.

Beverly is committed to building a new high school and committed to providing an excellent educational program in a building that is both safe and healthy. We strongly encourage you to grant this appeal and take whatever steps are necessary to continue Beverly High School’s accreditation, sending the right message to a community that is striving to maintain an excellent program and correct its facility issues in the only way that it can. It is far better for us to continue to work together on these important issues than to sever our relationship unnecessarily.