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NEVADA STATE PUBLIC CHARTER SCHOOL AUTHORITY

March 25, 2016

Legislative Council Bureau
2135
Carson City, Nevada

And

Grant Sawyer
4400
Las Vegas, Nevada

PARTIAL TRANSCRIPT OF PROCEEDINGS
FROM AUDIO/VISUAL RECORDING

NEVADA CONNECTIONS ACADEMY

AGENDA ITEM NO. 6

Consideration and Possible Action to direct Authority
staff to issue Notices of Closure pursuant to NRS 386.535

BOARD MEMBERS PRESENT:

Adam Johnson, Chair
Elissa Wahl, Member
Nora Luna, Member
Melissa Mackedon, Vice-Chair
Kathleen Conaboy, Member
Robert McCord, Member
Marc Abelman, Member (via teleconference)

Transcribed By: MARIAN S. BROWN PAVA, CCR #169, RPR
CALIFORNIA CSR #4525

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-oOo- APPEARANCES -oOo-

FOR NEVADA CONNECTIONS ACADEMY:

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PATRICK GAVIN
State Public Charter School Authority

1 -o0o-
WEDNESDAY, MARCH 25, 2016
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3
4 CHAIRMAN JOHNSON: We will call our meeting back to
5 order at 1:38. I apologize for being eight minutes
6 tardy. 1:38 p.m.

7 And so we are going to have Connections Academy come
8 up, and we're going to discuss the consideration and
9 possible action dealing with Connections, Nevada
10 Connections Academy.

11 So Deputy Attorney General Greg Ott -- Greg Ott, do
12 you have anything that you would like to start off with
13 or -- (inaudible).

14 MR. GAVIN: Mr. Chairman, I just want to be clear
15 that this is in relation to Agenda Item No. 6.

16 CHAIRMAN JOHNSON: Item No. 6, that is correct.

17 MR. GAVIN: Okay.

18 CHAIRMAN JOHNSON: And we have representation from
19 Nevada Connections Academy here at the table. Thank you.

20 MS. GRANIER: Thank you, Mr. Chair. Laura Granier on
21 behalf of Nevada Connections Academy, with the law firm
22 of Davis Graham & Stubbs.

23 MR. WERLEIN: Steve Werlein, principal of Nevada
24 Connections Academy.

25 First of all, thank you again for the -- I'm sorry.

1 CHAIRMAN JOHNSON: So we actually, over the
2 course of the day, we actually received -- or yesterday
3 received a continuance item on this item, and so the board
4 has an opportunity to -- to vote on whether we would like
5 to continue this item, Agenda Item No. 6.

6 Director Gavin, do you have any recommendations
7 on that continuance?

8 MR. GAVIN: Patrick Gavin for the record.

9 Mr. Chairman, I believe the item you are speaking
10 of is the -- is the addendum to the board package related
11 to -- I believe the specific request was for a continuance
12 related to Nevada Virtual Academy. However, we do think
13 it is appropriate, since we are offering that continuance
14 to Virtual, to offer it to the -- to the people from
15 Connections, as well.

16 I will note that the staff and -- and counsel of
17 Connections, you know, have engaged with us in some
18 dialogue. We recognize that there is a gap between what I
19 think the school would like to see versus what we are
20 currently talking about with them, but we would like to
21 continue the conversation.

22 I know Ms. Granier has expressed concern just
23 based on the agency's capacity and bandwidth about our
24 ability to sit down and have a meaningful conversation
25 in -- other than, basically, out in the hallway yet again.

1 So I think both Mr. Ott and I have committed to her -- and
2 I will certainly commit this to the other three schools in
3 question -- you know, that we will engage in either
4 face-to-face or telephonic discussions within the next two
5 weeks. Again, calendars are tough to switch, all the
6 other things that we're expected to do as an agency, but I
7 think that's -- I think that is a reasonable thing.

8 Because I would like to see some mechanism for
9 ensuring that students' educations are not disrupted for
10 the kids who are getting what they need, and -- and,
11 again, work with the school to figure out how we can
12 ensure that far more kids are getting what they need.

13 MS. GRANIER: Thank you, Mr. Chair, members of
14 the board.

15 We appreciate that very much. And I think
16 regardless of what happens today on this item we would
17 like to have that meeting, and I hope the commitment is
18 there no matter what happens. But we take this Notice of
19 Closure very seriously. There are very serious legal
20 implications. It has created a great deal of concern and
21 unrest among parents, among the staff, among the school.
22 And it is time for us to have a very meaningful dialogue
23 with you as a board.

24 We feel it is critical that we have the
25 opportunity to put information before you today, and then

1 once you have heard that information, you could consider
2 how you should act and -- and we would appreciate that
3 opportunity. We didn't know until, frankly, this morning
4 for sure, but we had a hint yesterday afternoon, that we
5 would be allowed to make a presentation during this agenda
6 item, and not being limited to public comment. And so
7 we're here and we would like you to hear the information
8 that -- that we think is very relevant and material to
9 this issue.

10 CHAIRMAN JOHNSON: Absolutely.

11 MS. GRANIER: Okay.

12 MR. WERLEIN: For the record, Steve Werlein,
13 principal of Nevada Connections Academy.

14 I want to -- I am going to share some slides that
15 one of my board members this morning was not able to stay
16 and do. But before I do that, I just want to say that,
17 again, I'm surprised that we're in this position. We've
18 had a few conversations over the last week. We thought we
19 were making progress so we would not have to be in this
20 position, facing a Notice of Closure. As Ms. Granier
21 said, it's disruptive to our staff, our students, and it
22 is doing harm to the school.

23 And our understanding is, we are here because of
24 our four-year cohort graduation rate. And we want to make
25 sure that we don't just make excuses and get anecdotal

1 stories about all the kids we serve, but we want to make
2 sure that that one data point is something that we use as
3 a large suite of data, of different data points and
4 metrics that we can look at. And we know we can improve,
5 but we don't think issuing a notice of closure is the way
6 to drive us to improve, especially on this one data point.

7 So I want to focus on some of the characteristics
8 of our school. And my board member, Ms. Rivera, this
9 morning, mentioned this. But we serve a very high
10 percentage of free-and-reduced lunch students.

11 We serve a lot of credit-deficient students.
12 Forty-eight percent of our students enrolling in grades 10
13 through 12 are credit deficient. That's something that we
14 take very seriously. And, again, we know we can do
15 better, but we also know that we're filling a need for
16 those students, and oftentimes we're their last resort.
17 And you heard that a lot this morning.

18 We have a high -- very highly mobile population.
19 Fifty-nine percent of the students in 2013-14 were new to
20 the school. Sixty-eight percent of our high school
21 students enroll after ninth grade. That's a lots of new
22 students.

23 However, if we look at our graduate -- graduating
24 class last year, 2015, we examined the characteristics of
25 them, and we found that 90 percent of them were on track

1 when they enrolled, of the ones that graduated; ten
2 percent were off track when they enrolled, but were
3 successful in graduating on time through the efforts of
4 our school. For students who come to us on track there is
5 a very good chance they'll graduate on time, even using
6 the current calculation.

7 For the 2015 cohort, 78 percent of all students
8 who were on track when they enrolled, graduated on time.
9 Six of the students that were included in our group of
10 non-graduates were enrolled for less than one month. One
11 student of that group was only enrolled for 14 days, yet
12 counted against our cohort rate.

13 The current four-year grade -- cohort rate does
14 not account for highly mobile students, as you see. Under
15 the new proposed legislation, ESSA, there's a requirement
16 that at least half a school year is spent at a school or
17 the student is counted at their previous school.

18 This pie graph depicts for you how long our
19 students -- how mobile they really are. Sixty percent are
20 enrolled for one year or less. We know that students come
21 to us due to a medical condition, due to a variety of
22 issues, transiency. We don't know how many all the time
23 fit into each category, but we know that our transiency,
24 mobility rate is very high, and because of that, our
25 cohort rate is obviously going to be impacted.

1 Yes, ma'am.

2 MEMBER WAHL: Sorry to interrupt your flow.

3 Is your transiency rate high in all of the state
4 or just Clark County?

5 MR. WERLEIN: It is high across the state. I
6 think it's -- and I don't have the statistics. I would
7 say it's probably more concentrated in Clark County, but
8 we do see it a lot up in Washoe and in the rural areas, as
9 well.

10 Of our 2015 graduates, as (inaudible), 75 percent
11 of them are off track. And you can see as they come to us
12 later and later in their high school career, they are
13 further and further behind, which again points to the fact
14 that we are oftentimes the last stop for these students.

15 Of our 2015 students that are considered
16 non-graduates under the current definition of adjusted
17 cohort, 27 percent of them are still enrolled and are
18 still trying to graduate. And we are going to do
19 everything we can to make them graduate.

20 We are glad that we have the opportunity to help
21 those kids that otherwise would just be counted as
22 dropouts. And even though they hurt our cohort rate, we
23 believe there's value in getting them across the stage.

24 We looked at our data from 2015. There were 14
25 students that were counted in our cohort as being

1 dropouts, that are also currently enrolled in
2 post-secondary institutions. I'm sorry. Twelve are in
3 four-year colleges, and two are in two-year colleges. And
4 we pulled that data from the National Student Clearing
5 House. So even though they're dropouts, somehow they're
6 at college. I really question how valid that is.

7 MEMBER CONABOY: Mr. Chairman, may I ask a
8 question?

9 CHAIRMAN JOHNSON: Yes.

10 MEMBER CONABOY: Mr. Werlein, it's my
11 understanding -- and I need you to correct me if I'm
12 wrong --

13 MR. WERLEIN: Please.

14 MEMBER CONABOY: -- please. It's my
15 understanding that the schools have an opportunity to
16 review their data before the final validation by the
17 department takes place. So how does this happen?

18 MR. WERLEIN: Quite honestly, there's -- because
19 of our transiency, we have a lot of students that when
20 they -- they drop out, we do everything in our power to
21 request records and to ascertain where they are. It can
22 be a very lengthy, six-, seven-, eight-, nine-step
23 process. And we're able to track where most of them are,
24 but there are some that, quite honestly, we cannot locate.
25 So we do everything in our power, but then we have things

1 like this pop up, where they're -- obviously went
2 somewhere, either out of state, or however they got there,
3 but they get through a post-secondary level.

4 MS. GRANIER: And I guess -- for the record,
5 Laura Granier -- I guess the question would be, you know,
6 is that really -- is there a meaningful process for the
7 school to present the type of information that we're here
8 to present to you today?

9 And I'll talk about this in a bit, so I won't
10 interrupt Steve's presentation here, other than to say,
11 before this board ends up in a place where it is -- has
12 agendized publicly that it is considering issuing a notice
13 of intent to close a school, at a minimum there should be
14 an opportunity for the school leader and the school board
15 to sit down with the Authority staff and present this kind
16 of data. That is all -- that is one of the things we
17 asked for, and we were denied. And so instead, we are
18 here before you in a public hearing, having caused a great
19 amount of harm to a school because of the uncertainty
20 that's been imposed.

21 MEMBER MCCORD: Well, Madam -- or Mr. Chairman,
22 let me go back, then, a couple of slides. You have the
23 number of credits deficient increasing, where we're
24 drilling down on the data at the request of your counsel.
25 Let's look at that for a minute.

1 It says the number of credits deficient increase
2 from grade level to grade level, if you would.
3 Seventy-five percent are off track. For ninth grade you
4 say -- you say 1.5. I assume that's a mean of 1.5 across
5 the entire end, so that there was a range of that, some of
6 which would have zero, some of which would have maybe more
7 than -- well, could have six.

8 And so when in fact you present this data, it's
9 oftentimes useful to include the end and the range when in
10 fact you're -- you're doing a measure of central tendency.
11 Okay? If in fact it is your commitment to help us become
12 better informed, please do it in a comprehensive manner.
13 And I mean that in a constructive sense, please.

14 MR. WERLEIN: And I appreciate that suggestion.
15 Thank you.

16 MR. GAVIN: If I might echo that? Patrick Gavin
17 for the record. I think what would be particularly
18 informative and responsive to Member McCord's request --
19 and I think it would help inform the deliberations of the
20 board with relation to this -- would be actually
21 quantifying the "N" of kids who are at each level of
22 credits earned. So number of kids who are one credit, two
23 credits, et cetera, at each level of the cohort. Because
24 there is a -- there can be a perception that we are
25 lumping in the kids who are one credit off from the seven

1 max that might be earned in a year, when in fact that
2 child actually is ahead of where they are to be
3 technically on grade level. Because a student that
4 actually passes every class and sits in every section
5 actually has a heck of a lot more credits than are
6 actually required to graduate. So I just think it's
7 really critical from a definitional perspective that the
8 school provide very clear data on this.

9 I would also note, I think it is really
10 important -- and this is something we should talk about
11 more offline, but -- there -- there be some method of
12 third-party validation of this, partic- -- whether that is
13 a transcript audit performed by a third party that is
14 acceptable to the Authority and the school, but paid for
15 by the school since there -- there are no State funds for
16 this, unfortunately.

17 But if we're going to -- if we are going to
18 present an alternate theory of what's happening, I do
19 think it's really critical for -- to ensure that neither
20 this body's integrity, nor the integrity of the school and
21 its board, are impugned, that we are very clear about what
22 the actual data points are.

23 MEMBER CONABOY: Mr. Chair?

24 CHAIRMAN JOHNSON: Yes, Member Conaboy.

25 MEMBER CONABOY: I think the executive chair

1 director is confirming counsel's argument that these
2 conversations ought to take place. A healthy discussion
3 about what will and will not be considered, and in what
4 format, certainly would inform our process much better.

5 MS. GRANIER: Thank you, Member. And I just
6 wanted to ask -- I guess ask a question, honestly a
7 question, because I think the school is -- we are all
8 about transparency. And we feel there should be a
9 transparency, you know, on both sides.

10 So just as we want you to look at all these
11 numbers and consider them -- and we will provide more
12 detail, absolutely, so that they are meaningful -- we want
13 to understand, how is the decision made to -- to put this
14 on the agenda?

15 Because the first time it showed up on the agenda
16 we had no idea, not so much as a phone call, "You're going
17 to be placed on the agenda for a notice of closure, and
18 here's why." It just showed up (inaudible).

19 MEMBER MCCORD: I believe you documented that in
20 your correspondence already, have you not?

21 MS. GRANIER: Yes, I have, Member McCord. And
22 I -- so my point, though, with respect to the third-party
23 validation is, that certainly is something to be
24 discussed. And there's no problem sharing the
25 information, absolutely.

1 My question would be: How can an agency rely on
2 one set of data that is validated by the Nevada Department
3 of Education to close a school, and then ask -- and then
4 say they can't rely on different calculations or
5 explanations of the number based on that same data that is
6 validated by NDE, that it has to be validated by a third
7 party? I don't -- I don't -- I see a fundamental flaw in
8 that process, that the State can rely on information for
9 closure, but the school can't rely on the same
10 NDE-validated information to oppose closure and say that,
11 you know, "You are looking at these numbers. When you
12 talk about lumping numbers together, you are only looking
13 at a four-year cohort number." You know, a number that
14 doesn't hit 60 percent because of credit-deficient
15 students.

16 And I want to let Steve continue, because he's
17 going to touch on that a lot more. And so I -- I just
18 would ask, you know, you to consider -- and I agree with
19 your comment and I appreciate your comment. These are all
20 things that we would have -- we would have addressed and
21 discussed had we just had the opportunity to have a
22 meaningful conversation before we showed up on an agenda
23 for an intent for a notice of closure, so --

24 MR. GAVIN: Ms. Granier, I just want to ask a
25 clarifying question. So you've noted that -- that the

1 Authority does -- and it is true, the Authority uses data
2 that is reported by the department, and then has been
3 validated by the department. So there is a -- there is a
4 cohort graduation rate which has been calculated by the
5 department and is published.

6 I am not aware of any report by the Nevada
7 Department of Education which is either -- which -- or any
8 analysis, whether or not it is actually reported, which
9 gets at the data points that you're sharing up there, or
10 that slices the data in the way in which you are speaking.
11 Is there such a thing and we're ignorant of it? If so,
12 please let us know what that is.

13 MS. GRANIER: And to respond to your question --
14 Laura Granier for the record -- Director Gavin, I
15 understand that the school has used the information based
16 on the same numbers that are reported and validated by NDE
17 to prepare the information that he is presenting today.

18 So that was my point. If those numbers are valid
19 for closure, they should be valid to be considered in --
20 you know, to explain why closure is not appropriate.

21 MR. WERLEIN: For -- Steve Werlein for the
22 record -- for example, we use Big Horn to look at our
23 total cohort groups when they come in. And that's readily
24 available. That's what the State, the NVDOE uses, as
25 well.

1 MR. GAVIN: But, again, is there an actual
2 analysis, as produced by an objective third party, such as
3 the department which actually validates this
4 interpretation of the data, that says, "Yes, 79 percent of
5 students are" -- "did persist"? That says whether -- you
6 know, whether -- what percentage of students are on track
7 at each -- you know one, two, three, four, five, six,
8 seven credits, whatever it might be?

9 Again, I am not aware of one. If -- if there
10 is -- if there is something being produced that we're not
11 aware of, that we can rely upon -- because we have -- we
12 have no statutory authority to create additional analytic
13 capacity. This is not something that there -- and let me
14 be very clear. If we start creating our own alternate
15 calculations that are not enshrined in law or statutes and
16 that we cannot validate, we -- you -- we will be putting
17 the agency in an untenable position with both the
18 governor's office and the legislature.

19 MR. WERLEIN: I am not aware of -- Steve Werlein
20 for the record. I'm not aware of a particular report.
21 But, again, we're not opposed to third-party validation.

22 Okay. Continuing. Some characteristics of
23 our -- more characteristics of our student body.

24 Students that entered our school in ninth grade
25 and stayed for four years had a 79 percent -- 79 percent

1 of them graduated on time. Seventy-seven percent of
2 full-year twelfth-grade students last year -- which means
3 they enrolled by October 1st and stayed enrolled through
4 graduation -- actually graduated. That does include some
5 summer-school graduates.

6 So I've talked a little bit about the
7 characteristics of our -- our student population. And, of
8 course, we would be happy to answer the questions. I
9 appreciate the feedback about -- that we were given by
10 Member McCord and by Executive Director Gavin.

11 When it comes to accountability, we certainly
12 want to be held accountable. We have no problem with
13 that. We have no problem with being transparent. But we
14 want to have an accurate measure that looks at all the
15 efforts the school is undertaking. The State
16 accountability framework now -- which I know is changing,
17 but -- it's a work in progress -- does not necessarily
18 accurately measure the mobility factor, the
19 credit-deficient factor, and other factors that -- that
20 cannot be captured in a four-year adjusted cohort rate.
21 And we know that's through no one's intention, it's just a
22 statement of fact.

23 When there's a typical accountability framework,
24 they usually apply very well -- or can apply very well to
25 traditional-zoned schools, where students are enrolled for

1 multiple years. The majority of kids usually stay in the
2 same system from elementary, middle, and high school. You
3 see them move across town, but they stay within the same
4 system. So when there is low mobility, using metrics like
5 that, and proficiency scores perhaps, can be very fair
6 reflections of how the school is performing.

7 But for schools that have high mobility and are
8 serving a high population of at-risk and credit-deficient
9 students, that is -- those two measures that I just
10 mentioned are not always the best. Like I said, we're
11 happy to be accountable for student (inaudible). We want
12 to be. But we're really being held accountable -- as are
13 a lot of other schools -- for the failures of other -- of
14 students' prior schools.

15 The example that I gave of a student that was
16 enrolled with us for 14 days, I don't know how we could
17 have turned that student's life around and made him
18 graduate in 14 days without raising other questions.

19 So, again, we want to be held accountable, but we
20 want it to be realistic and reasonable.

21 Some other highlights of our academic
22 achievement. This is from 2013-2014. You can see there
23 are a lot of areas across the board where NCA either met
24 or exceeded the State average on proficiency tests. And
25 we were, in 2013-2014, designated as being in good

1 standing by the Charter Authority.

2 MR. GAVIN: Mr. Werlein, I don't want to
3 interrupt your flow. If you'd prefer, I --

4 MR. WERLEIN: No, you're fine. You're fine.

5 MR. GAVIN: May I ask a clarifying question?

6 MR. WERLEIN: Absolutely.

7 MR. GAVIN: You've noted student mobility as a
8 factor. As I -- as I am sure you are aware, having like
9 myself been a relatively recent transplant to Nevada and
10 having, and having worked in a number of other states --
11 but you, if I recall correctly, your most recent
12 experience was also in a southwestern state. Texas;
13 correct?

14 Nevada has a very high student mobility and
15 transience rate generally speaking. Nevada has many
16 comprehensive high schools, which -- where there is high
17 degrees of transiency, mobility, disappearance of kids.

18 So my -- I guess my big question is: What, if
19 any, data points do you have -- and we can talk about the
20 validation piece later, of course -- but what data points
21 do you have that says that -- that demonstrate clearly and
22 convincingly that Nevada Connections' transiency --
23 these -- these -- these extra analyses that you've raised,
24 are materially different than for the other low-performing
25 elementary, middle, and high schools that are on the

1 State's low -- low -- low-performing schools list? The 78
2 of which are -- traditional public schools are -- are
3 eligible for inclusion in the Achievement School District,
4 which is a dramatic turnaround intervention, including
5 massive structural changes with governance and operation.
6 Based on the -- based on the data points that we have
7 validated, you know, were Nevada Connections a traditional
8 public school, it would be eligible for the ASD. We
9 are -- so I -- what --

10 How are you different? And can you -- and how
11 can you prove it? And how can you sell it? Verse -- I
12 just think it's really critical, if you are going to
13 tell -- if you are going to tell this story that it's --
14 that we're really -- it's agreed that it is possible that
15 we're really comparing apples and apples.

16 And I would submit that a comprehensive high
17 school in Clark County or in Washoe, with the broad range
18 of students that it takes in, including students who are,
19 I am sure, as wildly successful as many of the kids whose
20 parents testified today, and then there are kids who, for
21 whatever reason, are not as successful. You know,
22 including the kid who is only there for 14 days or
23 two days or 49 days, whatever it might be. That happens
24 across the state.

25 So I think it would be useful if there is any way

1 of actually defining that -- and I think where I am at a
2 loss is, I'm not aware of any objective data source that
3 allows us to say anything other than -- to swim in the
4 world of anecdote one more -- or unverified stories
5 between schools, where it's like, "Okay. Coronado High
6 School is this. Hug High School is this. Nevada
7 Connections High School is this."

8 Like those are -- I'm not aware of any data set
9 that gives us the -- especially right now, especially with
10 the very limited implementation of infinite campus that we
11 see statewide, and with -- and with varying degrees of
12 participation by schools and varying degrees of -- of
13 transparency and auditing of that, ultimately,
14 self-reporting data. It's going to get us to a point
15 where we can -- where we can walk in and say, you know,
16 "This is an accurate reflection of the data," versus the
17 most -- the most advantageous interpretation.

18 And again, I -- I want to -- I want to emphasize,
19 this is about ensuring that whatever data points are
20 shared are -- we use to justify ongoing operation for this
21 school -- or I should say that this body, that this board
22 chooses, based on either concurring or rejecting staff
23 recommendation, are based on things that have a high
24 degree of integrity and verifiability.

25 MS. GRANIER: For the record, Laura Granier. And

1 I don't mean to interrupt, but I do want to address a
2 couple of points there. One is, I think we have no
3 problem with that, and we want to present good
4 information. We think this board is legally obligated to
5 make decisions based on substantial evidence that are not
6 arbitrary and capricious.

7 I don't believe there's evidence before this
8 board to confirm or deny your statements about
9 comprehensive schools. I certainly don't -- "I don't
10 know" is the answer. But the point is, with fair notice
11 and -- you know, that information can be looked at prior
12 to the hearing or at the hearing.

13 But I think importantly, the sole reason we are
14 here, that we were told in phone calls this week and a
15 couple weeks ago in staff -- with staff is this four-year
16 cohort graduation rate. That's not a comparison of how
17 other schools perform. That is a graduation rate of our
18 school. So I don't think it's appropriate to consider
19 comprehensive schools and how they're doing.

20 Our point is that the mobility factor affects
21 this four-year cohort graduation rate. When we get a
22 student who came to us 14 days before graduation -- or we
23 had six of them for less than half a year -- what we're
24 saying to you is, you've got to -- you've got to figure
25 that we -- that is going to hurt our four-year cohort

1 graduation rate, because it is impossible to graduate that
2 student. And so the point is: How do you look at that
3 four-year?

4 You want -- and we spoke to Nevada legislatures
5 like that. And we've given you -- about that issue. And
6 they were very concerned, and this board should be very
7 concerned, that these students have a place to go. You
8 don't want us to turn them away. We're not turning them
9 away. Nevada Connections Academy is proud to welcome them
10 with open arms, knowing that we will end up here, under
11 this current calculation, because you will not consider
12 the fact that these students are mobile. That is the
13 point we're making.

14 So I don't think it's appropriate to ask for a
15 comparison, or for us to provide -- provide evidence of
16 what other schools are doing when you have us here solely
17 on our four-year cohort graduation rate, and I --

18 Now, with respect to these students, we're happy
19 to serve them. And what we want to do is work with you.
20 You know, you were -- you were given discretion by the
21 legislature to consider a notice of closure based on this
22 60 percent graduation rate. The legislature considered --
23 and it was in one of the drafts of the bill -- making it a
24 mandatory trigger, and they took it out. They put it in
25 the discretionary provision.

1 And the testimony presented to the legislatures
2 from -- as a representation from this Authority was that,
3 of course we want to make judicial -- judicious and
4 thoughtful decisions, and we will look at compelling
5 evidence. And that is how you do it without abusing the
6 discretion you have been given.

7 Under the law, you take evidence and your
8 decision is based on substantial evidence after hearing
9 the compelling evidence, as Director Gavin said to the
10 legislators. It is not without any opportunity for notice
11 or a hearing to set it on an agenda without any
12 explanation of the data behind it. And so that is the
13 point about the mobility issue.

14 And if there are questions and you want more
15 information from us -- that's our point about meeting with
16 you before we end up on an agenda. It is fair that we be
17 asked those questions, so that we can come to you, to
18 staff, before the hearing. And if staff is not satisfied,
19 then we'll come to the hearing. But at least we have had
20 a chance to engage in the dialogue and understand what the
21 concerns are and what the questions are, rather than
22 hearing them for the first time in a hearing where we've
23 been -- where we're agendized for a possible notice of
24 intent to close.

25 MR. WERLEIN: I'm not going to spend too much

1 more time on that. But we did look at last year's
2 graduating class. And if we were to use the ESSA
3 calculations this year, our 2000 -- I'm sorry -- our 2015
4 cohort rate was 36 percent. If we were to use the ESSA as
5 it stands, with a 50 percent cutoff -- meaning, the
6 student's with us for half a year -- that would be
7 44 percent. If we looked at 75 percent, which some states
8 are doing, we would be looking at a 48 percent.

9 And this is not to say that we can just inflate
10 our numbers, "No, look, we're okay." But it gives us a
11 much higher starting point. Because, believe me, like you
12 heard from our board members and you heard from
13 Ms. Granier and others, we want to improve. We want to
14 raise that rate as much as we can. But just giving it
15 some perspective there, looking at a new measure kind of
16 sheds some new light on -- on what ESSA, the impact it
17 will actually have.

18 And I -- my colleague earlier this morning talked
19 about some of these other points, but I just really think
20 that it's important that as a board you understand, we
21 have every desire to collaborate, to improve, to take
22 suggestions. We take them to heart. We take them
23 seriously. As a school, as an organization, as an
24 administration, we want to improve. We want to listen.
25 We want feedback. We want constructive criticism. We

1 want to move forward. But we also want to bear in mind
2 that there should be multiple measures of evaluating a
3 school like ours, that has a four-star middle school,
4 that has an elementary school that was approaching three
5 stars, which we know we can improve. But items like that.
6 The growth that our students can display, and have
7 displayed. We really want all of those to be considered.

8 And again, as a school leader my job is to not
9 make excuses, it's to come up with solutions. And I
10 really look forward to working with the Authority. I'm
11 hoping we're not issued a notice of closure, because I --
12 like I said, I look forward to working for the -- with the
13 Authority staff and helping our school improve. Thank
14 you.

15 CHAIRMAN JOHNSON: Any questions or -- for
16 Mr. Werlein or Ms. Granier?

17 MEMBER MCCORD: Mr. Chairman.

18 I'm -- you may find this hard to believe. I'm
19 sympathetic with your -- what you're saying in a lot of
20 respects. One of the -- one of the persistent problems
21 that I face -- and I mean this as constructive, not
22 critical. Okay? I mean it as constructive. Oftentimes
23 when we work with challenging populations -- and I'm
24 familiar with that. I had the highest -- or the lowest
25 socioeconomic school in Clark County, and I was the

1 principal of it. Okay? A wonderful place, wonderful
2 place. But you can describe the children all day long.

3 The question is: What is it that the data has
4 shown to you that is going to help you improve that
5 program and delivery of services? Absent from this
6 document is any of that kind of information -- or maybe I
7 am just not seeing it, and you can enlighten me on that
8 issue. But how do you do things differently?

9 Yeah, I am kind of -- of an advocate. Why is "No
10 Child Left Behind" dead? It is because it relied on -- on
11 single metrics. Just the same discussion that you've had
12 at this point. So I have some sympathy for that. And I'm
13 happy to -- to say that in public that maybe everything
14 isn't crafted as well as it should be in some respects.

15 On the other respect, when in fact we describe
16 kids and we characterize kids as being a very challenging
17 population, then you have to follow that with, "Here's
18 what we're doing that's really innovative and really going
19 to make a difference with those kids, and I'll be back to
20 you with the results of that."

21 I am not -- you're not alone. Okay? You're not
22 alone in this -- in this issue. I don't mean to be
23 engaged in a colloquy on this or get into it long. It's
24 just a disappointing point to me, but one that I intend --
25 communicate to you as -- in a constructive way. Okay? As

1 a hopeful for the future.

2 MR. WERLEIN: We already just -- Steve Werlein
3 for the record -- this year, looking at the population and
4 the sheer number of students that have enrolled this year,
5 and that we have carried over from last year, we've made
6 some improvements to our curricular offerings, to our
7 staffing models. These are all preliminary measures.
8 We're going to do a lot more, and we look forward to
9 receiving more -- more guidance and more ideas.

10 But the one thing we found is that so many of our
11 students come into us so disengaged, and have been from
12 school to school, that the most important thing we can do
13 is make sure we put those students in the position to
14 develop relationships with adults. And to that regard, we
15 have implemented mentoring, a family system, where staff
16 see kids from -- from day one through graduation.

17 Those are just a couple of things. I would be
18 more than happy, as we develop and put things into
19 place -- my goal is to be back here and share the results
20 of what we have done this year, moving forward, and to --
21 to have some tangible, concrete results of working with
22 these students. And I appreciate the -- the feedback.

23 MS. GRANIER: Chair Johnson, I apologize. I
24 actually had a presentation, but I felt like you should
25 hear from the principal and hear from a lawyer, as always,

1 as a last resort, so --

2 MEMBER CONABOY: May I interrupt, Mr. Chair? I
3 need to ask counsel a question. And I did discuss this
4 with Mr. Ott when he was our counsel earlier this week,
5 but now I need to ask Mr. McGaw, since I suddenly realized
6 that there are multiple schools on this agenda item.

7 Mr. McGaw, I have disclosed in the past that I
8 represent K12, Inc., which is the EMO for Nevada Virtual,
9 which is on the agenda for this item, I think for separate
10 consideration. But may I engage in this discussion while
11 a different school is at the table?

12 MR. MCGAW: Yes, you may, as long as it's
13 specific to that school.

14 MEMBER CONABOY: Thank you.

15 CHAIRMAN JOHNSON: Is there any other -- are
16 there any other further questions or discussion either for
17 Dr. Gavin or Ms. Granier? Member Wahl.

18 MEMBER WAHL: (Inaudible.)

19 CHAIRMAN JOHNSON: Member Wahl.

20 MEMBER WAHL: Member Wahl. So when you get that
21 notice of closure, is that when you're starting trying to
22 make a change, or is it when you see your graduation rates
23 are not what the State expects?

24 If I was a school leader and my graduation rates
25 were not what the State expects, I would start making an

1 immediate difference. And then when the other shoe
2 drops -- which is now -- I would have sufficient stuff to
3 show you: "Look. Here's what we're doing." I don't want
4 us to be in a situation where the Notice of Closure is,
5 "Ah, I never saw this coming." And that's not what -- you
6 should have seen it coming.

7 So did you start making a change when you knew
8 your graduation rates were not good, or when you got the
9 notice of closure?

10 MR. WERLEIN: Graduation rates and post-secondary
11 readiness have been part of our school improvement plan
12 since I began at the school. I think we've gotten more
13 focused on it, and that's when we've looked at increasing
14 our credit recovery initiatives. But it was not this fall
15 or two weeks ago, it was quite awhile ago. I think
16 there's more we can do, but we definitely, as part of our
17 school improvement plan organizationally at the school
18 level, it's been something we've been focusing on.

19 MEMBER MACKEDON: I have one question.

20 CHAIRMAN JOHNSON: Go ahead.

21 MEMBER MACKEDON: Patrick, correct me if I'm
22 wrong. Doesn't our performance framework actually call
23 for a comparison of schools? I mean, isn't that what our
24 performance framework does, is it takes students and says,
25 "If this student was at their home's own school, this is

1 the" -- I mean, I know it does that for the elementary and
2 the middle school. It says, "This would be their" -- you
3 know, "the median growth percentile at that school. This
4 would be the proficiency rate at that school."

5 I am not as familiar with high school. Does it
6 do the same thing with high school graduation rates in our
7 performance framework, where it does that comparison?

8 MR. GAVIN: Patrick Gavin for the record.

9 The standard performance framework for schools
10 that operate under charter contracts that have not --

11 MEMBER MACKEDON: Um-hum.

12 MR. GAVIN: -- petitioned the board for an
13 amendment, which has been approved by the board to change
14 that performance framework, does not have that comparison.
15 And that was -- and keeping in mind that the performance
16 framework was developed in a consultative process prior to
17 my joining the Authority by the previous director and --
18 and former staff in consultation with schools. I believe
19 that was an area where there was concern about the lack of
20 comparability. The particular -- and in particular, if
21 I'm recalling -- if I recall the statute, the statutory
22 provision, it specifically talks about student growth
23 comparisons. So there is no -- there is currently no
24 student growth comparison for high school that -- that
25 works statewide.

1 We as an Authority, as we roll out ACTS, aspire,
2 will have a growth metric that we will be able to utilize
3 for schools across the -- across our portfolio, to make --
4 to make some degree of comparative -- to look at that
5 growth piece and look at it comparatively. But it's not
6 something that is -- that is in the framework now.

7 I would also note that Nevada Connections
8 operates under a charter contract -- sorry -- a written
9 charter. It was renewed prior to the passage of AB205 in
10 2013. And so while we use the framework as adopted by the
11 board in standard -- in standard form as -- as a form of
12 performance audit under -- under the -- under the
13 provisions that govern written charters, it does not have
14 the same force and effect for them. We use it as the
15 mechanism under the -- under the written charter for
16 determining whether the school is on track to the goals
17 and whatnot, as laid forth in statute. But they are
18 actually -- it is one tool used for two different
19 statutory purposes at current.

20 CHAIRMAN JOHNSON: Mr. Werlein, I thought you
21 were going to say something or --

22 MR. WERLEIN: I am going to add one more -- one
23 more thing about what we're doing this year.

24 We look very carefully at where each student is
25 when they enter our school, or if they are a returning

1 student, where they are, and we literally individualize a
2 tiered plan for them.

3 We have students that we know are on track to
4 graduate, that work within the general components of our
5 program, but they still meet with counselors, they still
6 have an advisory teacher, they still have a homeroom
7 teacher. And we have a large percentage of those
8 students, like I said, that just with those programatic
9 pieces are going to graduate on time.

10 But we also know that we have students that are
11 between two to six credits behind. Those are the ones --
12 I mentioned the family system. They're assigned to a
13 faculty mentor, and they are literally owned by that
14 faculty member. And through using grad point for credit
15 recovery, but also making sure those students stay engaged
16 in school -- we want to get as many of them that are
17 deficient, across the stage. And those are the results.

18 Those are the programs that I think, just by the
19 end of this year, there are going to be results. We are
20 going to see an improvement. And I think as we refine
21 those processes -- we know we are going to continue to get
22 students late in the year from other schools for a variety
23 of reasons, and we don't want to make excuses for that.
24 It's just a matter of reality. It's going to happen. But
25 by keeping these things in place that we're doing, and

1 improving them and refining them and enhancing them, we
2 will see continued improvement. But we will see it this
3 year, as well.

4 MS. GRANIER: Thank you. For the record again,
5 Laura Granier.

6 We've talked a lot about process. And I won't
7 repeat myself, but there are a few more procedural points
8 I want to raise, and then a few legal issues I need to
9 raise for your consideration.

10 First, with respect to process. There seems to
11 be a pattern here that is concerning to us, and should be
12 concerning to you. And whether that's a result of
13 understaffing or budget issues, it must be addressed. And
14 that is, a school must be able to have this conversation
15 with your staff before it gets here. The questions that
16 have been raised by you are good questions, and we are
17 happy to provide that information. We've heard some
18 questions from staff for the first time today, and we
19 would be happy to provide that information. But you need
20 a process where, at a minimum, those kinds of
21 conversations take place before we show up on an agenda
22 for a notice of intent of closure.

23 To respond to Member Wahl's question -- I think
24 our principal responded to you, as well -- but the school
25 has absolutely been looking at that and working on things.

1 And, in fact, we came -- we participated in the last
2 legislative session when SB509 was being considered,
3 because we said -- we told legislatures, just as we are
4 telling you -- it is going to be a significant problem if
5 you -- if you start closing schools based on this single
6 data point. And, again, that took us back to, that's why
7 it became discretionary. And the promise was made that it
8 would be based on compelling evidence, not on a single
9 data point. So there has to be that opportunity.

10 But after the legislative session, given the
11 promises that were made about flexible graduation rates,
12 and disaggregation of data in order to respond to those
13 concerns -- and those representations were made by
14 legislators who were making the decision about what to
15 write into the statute, by Dr. Canavero, by Patrick Gavin
16 on behalf of the Authority. And the assurance was, you
17 know, "We are going to make thoughtful decisions, and we
18 are going to look at a flexible graduation rate because of
19 the issues you're raising. We don't want policy in the
20 State of Nevada that discourages or punishes schools for
21 serving these credit-deficient students. Where are they
22 going to go if we close the schools down that are serving
23 them because they are serving them?"

24 So we followed up in September, as you heard from
25 our board chair -- our board president this morning. She

1 unfortunately had other business because we didn't think
2 we would get a chance to speak on Agenda Item 6. We
3 thought we would be limited to public comment.

4 But she and our principal and I met with Mr. Ott
5 and Mr. Gavin in September of last year to follow up on
6 that discussion, to follow up on this very concern,
7 because we were worried about this happening. And we
8 said, "We need to work with you on this. We know our
9 graduation rate is an issue if you look at just that
10 number. We don't want to be blind-sided. We want to have
11 a meaningful dialogue. We want to show you that we want
12 to fix any issues. We want to tell you about what we're
13 doing." Just like Mr. Werlein did today in response to
14 Member McCord.

15 And the majority of that discussion was focused
16 on how we were tracking students from -- who were
17 withdrawing, and making sure we knew where they were going
18 and how we were recordkeeping. And as Director Gavin
19 spoke earlier, he said, you know, it's a complicated
20 process. And the student leaves one school and they've
21 got to figure out where they've gone before they're
22 actually accounted for.

23 And we talked about, you know, we've got a
24 process in place to try to find those students. We don't
25 always find them. And when we don't find them, they count

1 against our four-year cohort graduation rate.

2 And he said, "Well, if you have to, you hire a
3 private investigator." We got feedback. The school has
4 improved upon that process.

5 But in response to the other issue we raised,
6 which is, "We don't want to be blind-sided and show up on
7 an agenda for closure under this graduation rate," we were
8 told, "You don't have to worry about that. You've got
9 time. The Authority has bigger fish to fry."

10 So we did take action, affirmative action, to go
11 and ask, "How do we work with you to make sure that we
12 don't have to be before the board on a notice of closure?"
13 And we were told, "There's time." And the next
14 communication we got on the issue was the public agenda in
15 February. So there's got to be a process, and this board
16 should make sure that there is a process.

17 There was a regulatory workshop in January that
18 was mentioned earlier today. There were -- part of that
19 regulatory workshop included definitions of key terms,
20 including "metrics." And that's important to why we're
21 here today, as well, because "graduation rate" is not
22 defined in SB509.

23 You've heard people talk about different
24 graduation rates. You've heard about the flexible
25 graduation rate and how you're accounting for this

1 information. And so if you are going to not consider
2 other evidence before you issue a notice of intent to
3 close based on this sole data point, the least you should
4 do is understand the students behind that data point, if
5 you're not going to look at mobility rates and other
6 issues. So I think there should be a regulatory process
7 to define that.

8 There was an effort to initiate that process.
9 There was a single workshop. We provided -- we
10 participated in that workshop. We were hopeful. We spoke
11 to Director Gavin. We provided comments. And I am not
12 sure what the next steps are in that workshop. We have
13 not heard.

14 But given that the regulations have not been
15 adopted, it is unlawful ad hoc rule making to make
16 decisions now, without having any regulations in place to
17 give people notice, fair notice, about how you're
18 calculating graduation rate and -- and what steps -- what
19 the process looks like.

20 MR. GAVIN: Ms. Granier, may I just ask -- I want
21 to confirm something with counsel, if you will allow me?

22 Mr. Ott, can you confirm, is there a regulation
23 in place that specifies the requirements for notices of
24 closure and -- and for -- and for hearings?

25 MR. OTT: Are you talking about a hearing prior

1 to a notice of closure?

2 MR. GAVIN: I am specifically asking, is there a
3 current -- number one, is there currently a regulation on
4 the books which applies to the Authority as a sponsor,
5 which addresses the issue of whether a charter -- of how a
6 sponsor is to conduct the process of either revoking a
7 written charter or terminating a charter contract?
8 Specifically, I am asking you to report to the board, what
9 is the content of NAC 386.330.

10 MR. OTT: Yes, there is such a regulation. I was
11 just trying to figure out if you were asking the question
12 about whether -- the existence of that regulation, or
13 whether there is statutory authority requiring a hearing
14 prior to the issuance of a notice of closure, which was
15 the question that I thought you were going to ask. But I
16 think you've, in effect, answered your own question.

17 MR. GAVIN: So that is -- I wish to make sure it
18 is very clear on the record to the members of the
19 Authority and to those assembled, that there is in fact a
20 regulation in place. It was adopted in the 2014
21 legislative session. It is R0 -- and it is currently
22 listed in the Nevada register under the title R035-14A.
23 It is Section 44 of that regulation. Which says:

24 "NAC 386.330 is hereby amended to read as
25 follows: If the sponsor of a charter tool" -- "charter

1 school intends to revoke the written charter or terminate
2 the charter contract as applicable pursuant to
3 NRS 386.3" -- ".535, the sponsor shall notify the
4 governing body of the charter school pursuant to
5 Subsection 2 of NRS 386.535 by certified mail."

6 And secondly: "Two, if the board of trustees
7 ever calls a university's" -- so basically it's, we have
8 to -- we have to let the department know if it's someone
9 other than the -- other than the department. And we must
10 set forth the evidence that the sponsors made -- that the
11 sponsors admitted in termination, pursuant to Subsection 1
12 of that -- of that, and then describe the findings of the
13 sponsor that authorize revocation of the written charter
14 pursuant to NRS 386.535.

15 I would submit this is the process we are going
16 through right now. This -- this body is the sponsor, not
17 me. They are determining whether a notice of closure
18 should be issued. That is what is currently here.

19 I sympathize with the school's point that it
20 would be nice to have a requirement that staff have a
21 separate conversation with schools beforehand. I would --
22 I would submit it would be nice if there was a -- if there
23 was -- if there was some mechanism in place to do the kind
24 of in-depth data analysis of -- of non- -- of data that is
25 not reported by State or some other entity. Neither of

1 those things exist at this time. I just -- I wish to be
2 clear that the Authority -- that this is not an attempt at
3 ad hoc rule making.

4 Ms. Granier is correct. There was a workshop
5 where we were actually trying to dig into doing this
6 better. Those regulations are not yet in effect. They
7 have not even come before this board for consideration.
8 They are still -- we're still dealing with just getting it
9 scheduled with LCB for them to even look at this stuff,
10 because they're also very stretched.

11 We know that -- I mean, the changes that were
12 adopted in R035-14A were adoptions of change -- of -- were
13 changes based on the 2011 legislative session three years
14 later. It takes a very long time for new regulations to
15 work their way through, because it is a very deliberative
16 consultative process.

17 There is a regulation in place that currently
18 governs this, that counsel has advised me is sufficient,
19 and that we're -- we're making every effort to follow. I
20 just wished -- I just want to make sure that is on the
21 record. I appreciate Ms. Granier's concerns, and I
22 sympathize. We -- there are rules that currently exist
23 that we are -- that we are following.

24 CHAIRMAN JOHNSON: Member Wahl.

25 MEMBER WAHL: Member Wahl. I'm sorry. Mrs. --

1 MS. GRANIER: Granier.

2 MEMBER WAHL: -- Grain --

3 MS. GRANIER: Granier.

4 MEMBER WAHL: -- Granier. So earlier in the day,
5 in another school's discussion, we had two attorneys agree
6 on what a defined graduation rate was.

7 (Inaudible.)

8 MEMBER WAHL: I know. Our own -- well, not
9 our -- Patrick's DAG, and then Silver State's attorney.

10 Both agreed that a definition of a graduation
11 rate is that which is published by the NDE. That's the --
12 that's one basic that two lawyers agreed on today. So you
13 can disagree on that if you want to.

14 What I would like to ask is, what do you think is
15 compelling evidence? If we were to go by the published
16 NDE graduation rate as the end-all and be-all of the
17 graduation rates, what were Nevada Connections Academy's
18 graduation rates in 2012, '13, and '14?

19 MS. GRANIER: I think our principal can respond
20 to that. But the compelling evidence I would say is, as
21 was promised at legislature, it would not be based on a
22 single four-year cohort graduation rate calculated under
23 the NCLB.

24 MR. GAVIN: May I -- may I address that
25 representation, please?

1 Ms. Granier, I am reviewing the -- my testimony.
2 And to be clear, this was -- so this -- so the sequence of
3 events here was, this was the hearing before Assembly
4 Education of SB509. There was voluminous public comments.
5 Ms. Granier was one of the individuals who provided
6 comments in neutral. Ms. Granier made a -- made some
7 representations, which I will quote.

8 "The reference in Section 27, Subsection 1,
9 paragraph (e) mentions having below a 60 percent
10 graduation rate for the preceding year. My understanding
11 from discussions with Director Gavin and Chair Conaboy of
12 the Authority is that it should be a reliable, valid
13 number, meaning, it would in fact take into account data
14 that demonstrates that there is in fact student growth,
15 the school's performing as expected, required, and
16 negotiated under the performance framework set forth in
17 the charter contract, but it would not create
18 circumstances where a school would be closed simply
19 because it was serving credit-deficient students, and that
20 data has not been disaggregated so the graduation rate is
21 not reliable" -- "necessarily reliable." Pardon me.

22 Okay. Now I am going to move down to my rebuttal
23 comments at the -- afterwards. So following the end of
24 public comments I was asked to come up. And here --
25 here's the entirety of my statements, versus the pieces

1 that were cited in -- and it is your role to build as
2 strong a case as possible for -- for your client. So I --
3 but I just wish to put -- make sure the entire piece of
4 the -- the entire -- the entirety of the information is on
5 the record.

6 So what I said -- and this is, by the way, is
7 page 38 of the -- of the Assembly Committee on Education
8 Minutes from May 27, 2015. This can be found on NELIS for
9 those of you who wish to look it up.

10 "I want to thank this body for your indulgence in
11 this conversation. I appreciate the thoughtful questions
12 and feedback. We think this is a really strong bill. I
13 want to emphasize that Senate Bill 460 deals with the
14 question of how to hold a school that is serving a large
15 alternative population accountable. We have taken pains
16 to work with the sponsor of that bill, Senator Harris,
17 Chair of the Senate Committee on Education, to ensure that
18 these elements are aligned. To the degree that we did
19 have a school that was serving an alternative population,
20 that the" -- "so that they would not be subject to an
21 arbitrary catch-22 situation. We do not want to do that;
22 we want to make sure that we are making thoughtful and
23 judicious decisions. To that end, we have also endeavored
24 to make sure that anything above that 'three strikes and
25 you are out' level is discretionary on the part of the

1 Authority or sponsor board so that we can take into
2 account those kinds of nuances. I would submit, however,
3 that in cases where a school has a 27 or a 37 percent
4 graduation rate and is not classified as an alternative
5 school, that is the kind of thing we would all agree is
6 not acceptable, and that we need to ensure that we are
7 looking very carefully at why that is and if there is some
8 kind of compelling explanation, certainly taking into
9 account, but also holding any school that is at that level
10 accountable."

11 So I just want to make sure the -- and just to be
12 abundantly clear, the school I was speaking of in that,
13 where I cited those two specific numbers, was in fact
14 Nevada Connections Academy. And the data points that I
15 was citing -- and I would admit I did it off the cuff, so
16 it's possible I -- my eye jumped.

17 So the 2011-12 grad rate for Connections was
18 26.5 percent, which, just to be clear, would rank it the
19 eighth lowest high school in the state --

20 (Background noise.)

21 A VOICE: Hello?

22 MR. GAVIN: -- and in the 8th percentile,
23 statewide.

24 One year later in 2012 --

25 MEMBER CONABOY: Excuse me, Patrick.

1 Mr. Chair, do we know what's going on? I can't
2 listen to two things at once.

3 CHAIRMAN JOHNSON: Is there someone that just
4 joined the line on the conference call?

5 MS. GRANIER: Our board president, Jafeth
6 Sanchez, has joined the line, and she has asked to
7 participate telephonically.

8 CHAIRMAN JOHNSON: Is there a way that you can
9 mute your line until you plan on speaking, Ms. President?

10 It sounds like she may have. Thank you.

11 DR. SANCHEZ: Am I able to get direction as to
12 when I may speak?

13 CHAIRMAN JOHNSON: Yes. If you could either text
14 someone at the table and let us know you would like to
15 speak, or you may have to wait for an open -- an open
16 break in the conversation.

17 MS. GRANIER: We'll give her a text when --

18 CHAIRMAN JOHNSON: Perfect. Thank you. So,
19 yeah, you'll be contacted when you're --

20 DR. SANCHEZ: Thank you.

21 MR. GAVIN: So the 2012-13 graduation rate for
22 Nevada Connections Academy was 36.08 percent, which ranked
23 it the 13th lowest school in the state, and in the 12th
24 percentile statewide.

25 Nevada Connections Academy in 2013-14 was at

1 33.91 percent, and was in the 10th percent -- which made
2 it the 11th lowest school in the state, and in the 10th
3 percentile statewide.

4 2014-15, which was, in fact, the year I was
5 thinking of, because it was -- because that data was
6 already released to us at the point when I testified,
7 Nevada Connections Academy was rank -- was 37.9 -- point
8 one nine percent with their grad rates, which again ranked
9 it the eighth lowest in the state, in the 6.8th
10 percentile.

11 And then -- and that, by the way, was the data
12 point that we had at the time we spoke in December --
13 sorry -- in September. Subsequently -- and that was also
14 the point when the school had assured us they were making
15 significant changes.

16 Subsequently, based on a review of the data that
17 was validated by the department and released publicly in
18 late December, and was reviewed by the Authority in --
19 earlier this winter, I will note that Nevada Connections
20 Academy in 2015-16, for that accountability class, had a
21 graduation rate of 35.63 percent, which again ranked it
22 eighth lowest in the state, and in the 6.8th percentile.

23 So I just want to make sure that's on the record,
24 what our -- certainly what my intention was, in
25 particularly stating that Nevada Connections Academy does

1 not have a mission to serve alternative students. It does
2 not have a -- it does not have an alternative population
3 that, based on the school's representations to us, at
4 least at this point, would meet the threshold for the alt
5 framework.

6 Hence, this whole discussion about nuance, which
7 was specifically related to the alt framework and making
8 sure that there was a segregation of the absolute floor
9 for any traditional charter school versus a school that
10 was truly serving an alt-ed population, that we were going
11 to look at those things differently.

12 I just want to be abundantly clear about what the
13 intention of the -- of what those remarks are. And I
14 believe that that is clear from context, from the full
15 context of the remarks. But I just wish to put it on the
16 record at this time.

17 I will say again, we -- I look forward to talking
18 to the school about what we can do to figure this out.
19 But what we have right now is a -- is an extraordinarily
20 unacceptable graduation rate.

21 CHAIRMAN JOHNSON: Member Wahl.

22 MEMBER WAHL: Am I allowed to find that this is
23 compelling evidence?

24 Oh, sorry. I'm so used to Greg.

25 MR. MCGAW: It is certainly within your

1 discretion. Ed McGaw for the record. But I believe it is
2 within your discretion, but --

3 MEMBER WAHL: I mean, without taking a formal
4 vote, I can personally say, I feel that this is compelling
5 evidence?

6 MR. MCGAW: Yes. It is certainly within your
7 discretion.

8 MEMBER WAHL: Okay. I feel that this is
9 compelling evidence, especially in light of the fact that
10 two attorneys agreed on what a graduation rate really
11 means. So if you guys want to fight what a graduation
12 rate means, that's up to you. But our DAG has spoken, and
13 I rely on him. And I personally find this compelling
14 evidence.

15 CHAIRMAN JOHNSON: Ms. Granier.

16 MS. GRANIER: Thank you. I would like to just
17 make two quick points, because there -- because of this
18 issue that was raised. And if you'd indulge me, I would
19 like to let our board president speak, and then finish my
20 presentation, please.

21 First, I'll address the point Director Gavin just
22 made. And I thank you for putting that on the record,
23 because I certainly was not trying to take anything, at
24 all, out of context.

25 The graduation rates that you just cited for the

1 years you've cited are exactly the reason we were
2 expressing our concerns to legislators about using the
3 single graduate, four-year cohort graduation rate
4 currently calculated under the No Child Left Behind Act as
5 a reason -- as a trigger to close a school. That's why we
6 were having those conversations.

7 And they agreed it was not an appropriate
8 mandatory trigger. They agreed, and they made it a
9 discretionary trigger. And I believe the context of my
10 testimony and your testimony was with respect to how that
11 discretion would be exercised, and that there would be
12 additional information considered.

13 When you talk about compelling evidence, I think
14 in accordance with the law and with standard
15 administrative agency law, agencies have to make their
16 decisions based on substantial evidence. So I found your
17 statement about providing compelling evidence consistent
18 with the law, with -- and so that's why we were there
19 making those statements and expressing those concerns, and
20 that's why we met with you in September.

21 And given that you had all of that data in
22 September, and -- and I do not recall, and I'll ask our
23 board president and our principal to put on the record --
24 I do not recall any discussion of significant changes at
25 that meeting. That's what we asked for the meeting for,

1 was so that we could have that conversation, and the
2 conversation didn't happen because we were told, "We have
3 bigger fish to fry." So that's the -- the response to
4 that.

5 With respect to an alternative framework, we
6 heard earlier today, "Yes, this was all in the same
7 context. It hasn't been established yet," I believe. So
8 you can't say whether a school is in or out -- which makes
9 it another critical reason that you not rely on a single
10 four-year graduation cohort rate under No Child Left
11 Behind, to trigger closure of a school, without looking at
12 the students that are being served at that school and how
13 many of them are credit deficient, and what level.
14 Because that alternative framework has not been set up
15 yet, and the legislature was trying to address that
16 problem. And they also figured you would be able to use
17 your discretion in a reasonable way to consider that,
18 instead of a single number.

19 With respect to two attorneys agreeing to what
20 "graduation rate" means, two attorneys do not represent
21 everyone. And two attorneys can't replace rule making for
22 this body. And those two attorneys were making statements
23 with respect to a negotiated settlement with this agency.
24 So they're -- I respectfully submit, that doesn't mean
25 that the -- that the definition of "graduation rate" for

1 purpose of this statute is by any means settled.

2 And that takes us back to Director Gavin's having
3 pointed out to you that NAC 386.330 talks about notices of
4 closure and hearings. I was not -- let me be clear, and I
5 apologize if I was unclear -- I was not making the
6 representation to you that there is no regulation. As he
7 said, that regulation was adopted after the 2011
8 legislature. It was adopted in 2014. And then in 2015,
9 we had this significant statutory change that added SB509,
10 and added a serious trigger for closures, which includes
11 this graduation-rate issue.

12 And after that, everyone, I think, that
13 participated in the session and then in this rule making
14 believed -- and, in fact, Mr. Gavin just said they started
15 the rule-making process to incorporate the 2015 changes.
16 It hasn't been completed yet. We agree.

17 It is ad hoc rule making if something that needs
18 to be addressed in that rule making is now done here on
19 a -- on a one-by-one, one-off basis, without having made
20 the necessary regulatory amendments that flow from the
21 statutory changes. And that is what has not occurred.

22 So I just wanted to clear up those few points,
23 and I do know our board president is under time
24 constraints. And I'm so appreciative she called in,
25 because she is so committed to this school, so -- so we'll

1 shoot her a text so that she knows she can speak now.

2 DR. SANCHEZ: Can everybody hear me?

3 CHAIRMAN JOHNSON: Yes. We can hear you loud and
4 clear.

5 DR. SANCHEZ: Okay. Thank you, everybody. I was
6 there this morning. This is Dr. Sanchez, Nevada
7 Connections Academy Board President, for the record.

8 And as was mentioned earlier, it's spring break
9 for a lot of individuals, and that includes the University
10 of Nevada, Reno, and, therefore, that includes my care
11 provider, who is also on spring break. So I was there
12 this morning while my child was with daddy, and I am back
13 with him, but I'm on the call, nonetheless. I've been
14 streaming it and watching everything very carefully.

15 There are so many things that are concerning to
16 me that I've heard from the Authority, beginning with
17 being asked to provide data right now, during a public
18 hearing, without ever being given an opportunity to do so
19 prior to today.

20 Again, it brings the concern of having this
21 notice of closure supposedly being an ultimatum or a final
22 opportunity to provide information, when there has never
23 been one opportunity to provide that information, which
24 Ms. Granier has pointed out on various incidents today.
25 And I echo all of that. And I echo everything that has

1 been said of virtual schools overall.

2 I heard a board member say that they didn't
3 realize multiple schools were on the agenda. And I'm not
4 sure where that came from, or why that would be the case,
5 that being a board member. I'm not sure if I
6 misunderstood, and I would be happy to get clarification
7 of that. But, again, that concerns me that we're here for
8 this particular reason, and there would be that lack of
9 knowledge.

10 Another asked to provide data on the slide for
11 verification of the characteristics of this school or the
12 students, and then mentioned that the characteristics
13 don't matter. But yet, again, we're emphasizing that
14 we're focusing on one data point, and that one data point
15 includes contextual information.

16 I teach in my master's classes for aspiring
17 principals to make data-based decisions. And that's what
18 I'm asking everybody here to do is make a data-based
19 decision, not on one data point, but on valid, reliable
20 data that's reflective of quantitative values and
21 qualitative values. And I ask you to consider today's
22 testimony as part of that qualitative data that's going to
23 inform your decision today to vote "no" for Nevada
24 Connections Academy.

25 And further notice. I also wanted to point out

1 that another board member asked information and said,
2 clarify, "Please clarify if I'm wrong about the Nevada
3 school performance framework."

4 How is it that there's a board member on our
5 Authority who is not familiar with the Nevada school
6 performance framework, and lacks an opportunity or
7 knowledge or depth in understanding that there actually
8 isn't a direct alignment with what happens in a
9 traditional brick-and-mortar charter school and NSPF, and
10 the way that our charter schools are evaluated?

11 In addition, our own Mr. Gavin asked that we
12 create a data set with input to verify information. I'm
13 sorry, but, honestly, I believe that's part of your role
14 as Authority board members and as an Authority to provide
15 that guidance and direction to facilitate all the
16 opportunities for our schools to be able to follow what
17 you want as an expectation, so that we can meet those
18 expectations.

19 We can build our own expectations. We do create
20 our own expectations. We're very aware of that graduation
21 point. And we have been putting things in place to make
22 this a better school for our students, our families, and
23 the community at large, and the state as a whole.

24 However, I would like to question how many have
25 joined -- excuse me -- how many have joined the live Life

1 Center? How many have come to this school to see the
2 teachers and to meet -- to be able to know this
3 information? All the questions that have been asked today
4 are questions that could already be known with engagement,
5 with dialogue, with open, transparent communication.
6 That, again, has not been afforded to us -- has not been
7 afforded to me.

8 In my data-based decision-making class -- again,
9 I emphasize that you do this today. I'm not sure why the
10 Authority earlier in -- in the call this week with Patrick
11 Gavin, why he reiterated in his -- and has alluded to
12 today -- that you don't have the ability to verify data.
13 I'm sorry. My understanding was that as the Authority
14 that is the role, to be able to verify data, to hold us
15 accountable.

16 But I want to turn it a little bit and ask:
17 Where is the accountability from the part of those of you
18 who are supposed to be supporting our efforts rather than
19 being punitive and rather than focusing on the deficit
20 model, which has long been part of the issue in our
21 educational system?

22 I would like to see a system perspective where
23 it's not one data point, where it's not one individual
24 set, with not one snapshot, but rather, it's something
25 that is holistic, that's proactive, that can make an

1 impact and that can really lead to logical means of
2 improvement throughout. We have the opportunity. We have
3 the capability. We have a very diverse board.

4 If any of you are up-to-date on the recent
5 literature about how critical board members are for
6 helping to create change, it is imperative that the board
7 understand the -- the critical issues that happen. It is
8 imperative that there's an engaged board. And we have
9 that. It's essential that we have a diverse board, and we
10 have that, not only from novice -- less than three-year
11 faculty; half of our composition -- to -- to more
12 experienced for our board.

13 I just cannot reiterate how difficult, how
14 concerning, how disheartened I am to be watching this via
15 a live feed and know that there are so many things that
16 could be answered prior to what it has come to, which is
17 right now. And I ask you again to vote "no."

18 And please understand that we are more than
19 capable and willing to be able to -- to move forward
20 proactively, rather than reactively under punitive
21 measures from a deficit perspective, because that's not
22 what we do in Nevada Connections Academy. And that's why
23 we accept all students and why we have that contributing
24 factor of our lower graduation rates.

25 CHAIRMAN JOHNSON: Thank you, Dr. Sanchez. This

1 is --

2 A VOICE: Chairman Johnson?

3 DR. SANCHEZ: (Inaudible) questions of me?

4 CHAIRMAN JOHNSON: Are there any questions of
5 her?

6 No, Ms. Sanchez, there are none. Thank you,
7 though.

8 MS. SANCHEZ: Thank you for the opportunity to
9 join via virtual, which I hope exemplifies that this is
10 what we are and this is our motto, and we can still do
11 things this way. Thank you.

12 CHAIRMAN JOHNSON: You're welcome.

13 MS. GRANIER: Thank you, Chairman Johnson. And
14 we appreciate the (inaudible) to have our board president
15 call and participate in that manner.

16 Application of SB509 in this manner is
17 retroactive and unlawful. The Nevada Supreme Court has
18 been clear that a statute has retroactive effect when it
19 takes away or impairs a vested right acquired under
20 existing laws, creates a new obligation, imposes a new
21 duty in respect to transactions or considerations already
22 passed. A statute must not be applied retrospectively
23 unless such intent is clearly manifested by the
24 legislature. The presumption is against retroactive
25 application unless it is clear the drafters intended the

1 statute to be applied retroactively.

2 And I'm quoting the United States Supreme Court,
3 who said:

4 "Elementary considerations of fairness dictate
5 that individuals should have an opportunity to know what
6 the law is and to conform conduct accordingly. And
7 settled expectations should not lightly be disruptive.
8 Central to the inquiry of retroactivity is fundamental
9 admissions of fair notice, reasonable reliance, and subtle
10 expectations."

11 That is squarely within everything we have been
12 discussing today. Settled expectations. This school got
13 their charter nine years ago, and they have been
14 effectively serving schools for all of that time.

15 And they are not under a charter contract. They
16 are, as you heard, still under that charter. They have
17 complied with legal requirements. They have served
18 students well.

19 This issue came up in the last legislative
20 session. We actively participated. And there is a
21 significant legal question as to whether it can be applied
22 the way it is being suggested to you, in this manner, in a
23 retroactive way, where a school has a charter in effect,
24 based on old data -- a graduation rate from 2015 that was
25 completed also before this statute came into effect --

1 without so much as considering the information behind
2 those numbers that we're trying to present to you, having
3 a meeting to hear what the school is doing and providing
4 an opportunity to look at the meaningful data.

5 We have vested rights in our charter, and we have
6 a performance framework, an established law, and we rely
7 on those and we have performed under those. We did not
8 include in -- you did not include in granting the charter
9 this 60 percent graduation rate trigger for closure.
10 There was no notice. And we've talked about that.

11 And the -- and the definition issue of
12 "graduation rate" is important, especially in the way it
13 is being suggested to be applied here, which is arbitrary
14 and based on old data. It looks to be a "gotcha," using
15 old data and a new law that does not say anything about
16 being applied retroactively, to try to shut down a school
17 with no notice and not so much as a meeting with the staff
18 to have these kinds of discussions that we're having here
19 today before we're put on an agenda at a -- at a minimum.

20 You know, we have no minimum time to actually try
21 to graduate some of these kids that are included in this
22 graduation rate that you are considering for closure. A
23 child who comes to us 14 days before graduation is
24 considered a dropout under that number.

25 These -- we've provided you significant details

1 about every student at the school in our letter, and where
2 they are. Almost half of our students are credit
3 deficient when they enroll in our school. What that means
4 is, even if every single one of our kids accumulated
5 credits at a normal on-track rate from the moment they
6 enrolled, our graduation rate would still be barely over
7 50 percent. That is penalizing this school for serving
8 kids who have not done well in other schools, who have
9 gotten behind and need a different option. And they have
10 chosen us, and they are coming to us and succeeding. But
11 the school gets no benefit from that success. Other
12 states, like Arizona, give you credit for taking
13 credit-deficient students and getting them back on track.

14 If you look at our numbers, 70 -- I think it's
15 74 percent of the students in that non-graduate number
16 that you're considering in the 35 percent graduation rate,
17 came to us credit deficient. Some of the students who we
18 did graduate within that 35 percent four-year cohort
19 number, under No Child Left Behind that's being used, some
20 of those students successfully caught up. They came to us
21 behind, and we caught them up and we did graduate them.

22 So using this single data point without any
23 information is not compelling evidence. It's arbitrary
24 and capricious.

25 There's further retroactive problems here. And

1 in the backup materials there's discussion of Nevada
2 freezing the current list of priority schools as of
3 December 10, 2015. So there will be -- you know, there's
4 a suggestion that those schools will be frozen as of -- if
5 they were considered a priority school, on December 10,
6 2015. They are frozen there, and they will continue to
7 implement their interventions for 2015-16, and '16-'17.

8 You know, we have, I think, a graduation
9 improvement plan in place. And we're always willing to
10 work on that. But I'm not aware of any intervention plan.
11 There was no discussion of that prior to this appearing on
12 the agenda. So where is this school? That just flags for
13 you another problem with the retroactive application of
14 this law.

15 The backup materials which were publicly released
16 yesterday, I think around 4:00 p.m., for the first time,
17 gave us notice that all -- there was -- that we were being
18 identified for a notice of closure, not just on graduation
19 rate, but for the first time we learned in the backup
20 materials there was a citation to NRS 386.535,
21 Section 1(g).

22 We had no discussion. We had no notice. We have
23 no information, other than what is in the backup materials
24 that were provided to the public. And those backup
25 materials -- and actually strike that -- that statute

1 makes reference to performance issues, "being
2 unsatisfactory as determined by the Department of
3 Education pursuant to criteria prescribed by regulation by
4 the department to measure the performance of any public
5 school."

6 There is no -- so there is supposed to be a -- an
7 NDE regulation. There's no citation to it. I asked for
8 it before the meeting. No one from the -- no one from the
9 Authority, representative from the Authority, could
10 provide me the citation to that regulation.

11 The regulation that is referenced in the backup
12 materials from 2014 doesn't apply. That talks about a
13 definition of the -- of persistently underperforming, and
14 that does not apply to us.

15 So here we are, once again, with another supposed
16 reason to issue a notice of intent to close the school,
17 and we don't understand why. And we don't even understand
18 the regulation, because there's been no identification of
19 it that's being referenced in support. 233b and due
20 process require more.

21 As we've made reference earlier, and you've now
22 heard in detail, there was a lot of talk about this at the
23 legislature. Director Gavin has given you his testimony.
24 This issue also came up, though, in the context of SB461,
25 which was Senate Education Committee Chair Becky Harris's

1 bill to try to create individualized education plans for
2 students to graduate, for these credit-deficient kids so
3 that they would have an individualized plan to get them on
4 track, which is frankly, I think something Connections has
5 done for many years. So we collaborated with her, and we
6 were thrilled to see it. And we raised this issue, I
7 think, for the first time in the context of that hearing.

8 That discussion spilled over into SB460, and then
9 also SB509. And the reason is, there's a -- there's a
10 closure provision under SB460 and, of course, the closure
11 provisions under SB509. And so we continued to have this
12 dialogue about schools being concerned about closing them
13 based on a single four-year cohort graduation rate.

14 And the response when she raised that issue in a
15 hearing -- and I included this in the letter that we've
16 provided you -- on Senate Bill 460, and she said, "We are
17 going to hear from many charter schools today that are
18 coming to us with concerns about being closed down based
19 on this single data point."

20 And Dr. Canavero's response to that was, "We can
21 have a flexible graduation rate if we need to." And our
22 discussions with him at the time, in good faith, were, "We
23 don't need new statutory language to address this policy
24 issue that the legislators were so clearly concerned
25 about" -- and that is, being punitive to schools for

1 serving these credit-deficient students -- "we can address
2 it under existing law."

3 And that is, I believe, the context by which
4 everyone moved forward in good faith that you would
5 exercise your discretion in a manner -- in a prospective
6 manner -- not retroactively, in a prospective manner -- in
7 a reasonable way based on evidence that included
8 information about the students behind the number and what
9 the school was actually doing. Again, our last official
10 communication from the school was that we were in good
11 standing. You've heard about our meeting last September.

12 You know, this Authority's mandate, statutory
13 mandate under NRS 386.509 is to collaborate with charter
14 schools and to create an environment in which charter
15 schools can flourish. And with all due respect to all of
16 you, this does not feel like an environment where charter
17 schools can flourish. It feels like an environment where
18 we are in turmoil, brought on by no notice and no meetings
19 and no information, and it is creating fear and it is
20 incredibly disruptive.

21 I was there and helped work on, collaboratively,
22 the bill that created this Authority. And there was so
23 much excitement behind it, to create a place where charter
24 schools could flourish and good policy could be made.

25 And that's all we're asking for. We're not

1 hiding from accountability and we're not hiding from
2 transparency. We just ask you to work with us the same --
3 and direct your staff to work with us, just as the
4 legislature directed you to do in the very provisions of
5 that statute.

6 We heard earlier, you know, statements about
7 other high schools, that when graduation rates come in,
8 questions are asked. And I understand from a -- you know,
9 my understanding was that was -- was, that's a reasonable
10 thing to do. You get this graduation rate and you're
11 going to act on it, or you're going to put a school on an
12 agenda to act on it, on a notice of intent to close. Then
13 you ask the school some questions.

14 Director Gavin clarified those weren't the
15 questions he was talking about. But that -- that is, I
16 think, the process that everyone anticipated and expects,
17 and I think that's what the law requires.

18 You don't have any information -- compelling
19 evidence? What is compelling evidence? That is having a
20 meaning behind that data point you're considering. Do you
21 know what kids are behind that number? Do you know what
22 students and their circumstances make up the students that
23 are missing from that number, those non-graduates? Did
24 you know before I just told you, and our principal just
25 told you, that 74 percent of those students, those

1 non-graduate students, came to us credit deficient?
2 That's compelling evidence. That's the information you
3 need to consider.

4 Did you know that that number counted as a
5 dropout against us? A student who was with us for
6 14 days? That's the kind of information that you've got
7 to consider as compelling evidence, not just a number.

8 There's a -- I think there's a question here and
9 there's some confusion, as well. The 60 percent
10 graduation rate trigger applies to a high school. We are
11 a K-through-12 school. We have one charter for 12 grades.
12 This body and the Authority has not approached us about
13 amending our charter or splitting off our high school. So
14 I am -- I think there's another procedural issue here.
15 You don't just skip a step. There certainly isn't
16 authority to shut down the entire school. It is solely
17 related to the high school. And we are a K-through-12
18 school.

19 Under NRS 233b.121 and due process, we think a
20 notice of closure in this manner is absolutely a contested
21 issue. And that's, again, where this rule making, ad hoc
22 rule making issue comes in and -- and some due process
23 comes in.

24 In order to issue this notice of closure you're
25 going to make a determination that there's a deficiency

1 here. You're going to make a finding that -- that it is
2 reasonable, and you have substantial evidence to support
3 you exercising your discretion to issue the notice of
4 intent to close. And that triggers due process
5 requirements and it triggers a requirement that there be
6 an opportunity for meaningful evidence to be provided and
7 considered.

8 Also mentioned earlier, I think -- and some of
9 the board members seemed very interested -- are changes
10 under the ESSA. Again, you are going to close a school
11 based on a retroactive application of a law for a single
12 four-year cohort graduation rate, calculated under the
13 No Child Left Behind Act, which I believe expires in
14 August of 2016. At which point, one of our significant
15 issues about these students, these mobile students that
16 I'm talking about who are with us for 14 days or for a
17 couple of months before the end of the school year, cannot
18 be counted.

19 And we have the citation. We've included that
20 discussion for you in the letter under the ESSA. But it
21 is mandatory that a student that is with a school less
22 than 50 percent of the school year will not be counted
23 against that new school's graduation rate. It will be
24 attributable to the school that was left. And we can
25 certainly provide you the citation. There is no -- there

1 is no wiggle room there. There is no discretion. States
2 can go higher than that and go up to, I think, as high as
3 90 percent, reflecting good policy.

4 Why should a school such as Connections, that is
5 taking in these students who need a place to go and
6 effectively serving them be punished for how the -- how
7 the children didn't succeed at their prior school? That's
8 what is happening when you don't consider that mobility
9 issue.

10 It's required to be considered under the ESSA,
11 and it would be arbitrary and capricious to not take those
12 kind of factors into account in exercising your discretion
13 under 509.

14 233b requires that in a contested matter all
15 parties be afforded an opportunity for a hearing. We
16 appreciate learning this morning that we get to
17 participate today. We think there may be issues
18 procedurally with how it was agendized, and especially
19 with the Subsection (g) issue being identified in the
20 backup materials with no identification to the regulation
21 that's even relied upon if it exists.

22 There's obviously a notice issue there. We can't
23 respond to it. We got it late yesterday. There is no
24 identification of the regulation, there is no ability for
25 us to try to even present you evidence or information on

1 that issue. That issue -- that -- that -- what we do know
2 about that is, it makes reference to us being a priority
3 school, identified by the department in 2015, June of
4 2015, I believe.

5 And we have looked at the NDE's website. And I
6 believe the NDE's own website that lists that is with
7 respect to only Title 1 schools. And on its face it says
8 the information isn't reliable because of the testing.

9 We are here to work with you. We believe that
10 there are legal concerns, and concerns of fundamental
11 fairness with what has gone on, that led to us being in
12 the position we are here today, on an agenda with an item
13 of a notice of intent.

14 We ask you to consider all of the information we
15 have put forward, and work with us. We don't want to
16 litigate. We want to serve students. We want a
17 compromise. We want a reasonable time period to show you
18 that we can improve.

19 What we don't want -- you know, the reason we
20 didn't ask for a continuance or -- is -- is -- to have a
21 continuance of this item hanging over the school, leaves a
22 great amount of fear and uncertainty for parents who are
23 making decisions for their school for the next school
24 year.

25 Given the lack of collaboration, communication up

1 to this point, I don't think a continuance is a fair
2 result. I think you should vote "no" on the notice of
3 intent to close and give us some opportunity to -- to work
4 with staff. We are here telling you -- and we have told
5 them and we went to them in September, saying, "We want to
6 work with you. We have come up with a meaningful plan."

7 We've talked about some of the terms that the --
8 that the Authority staff says they would like to see. And
9 we would like an opportunity to reach some level of
10 compromise with you that gives us a reasonable period of
11 time. Other schools are given three years to meet
12 requirements. We would like a reasonable period of time
13 to do that.

14 So we would ask you to consider voting "no." If
15 you are not voting "no," and there is -- then we would ask
16 for just a five-minute recess so that we can discuss the
17 item and whether there's another manner of compromise.

18 CHAIRMAN JOHNSON: Member Wahl?

19 MEMBER WAHL: You keep using the word
20 "retroactively." When is a graduation rate not
21 retroactive evidence? We get it after the fact. So are
22 you going to come before us every year and say, "That's
23 retroactive evidence"?

24 MS. GRANIER: No, Member --

25 MEMBER WAHL: Because that's what I'm hearing.

1 MS. GRANIER: No, Member Wahl, not at all. Thank
2 you for the question. For the record, Laura Granier.

3 What's retroactive about it is, the law was made
4 effective January 1, 2016. So if you are putting that in
5 place now and looking at it prospectively, and you get,
6 you know, this year's data, then I think you can look at
7 it once you have data after the law has become effective.
8 So I don't think it's always going to be retroactive.
9 It's only retroactive to the extent you try to apply it to
10 schools based on old data.

11 CHAIRMAN JOHNSON: Is there any other discussion
12 or questions for Ms. Granier?

13 Deputy Attorney General Ott.

14 MR. OTT: Deputy Attorney General Greg Ott.
15 Thank you, Chair Johnson.

16 Like Ms. Granier, I try to stay out of the way
17 with the law stuff so that the educators can talk about
18 the education stuff, which I feel like is the more
19 important component.

20 But Ms. Granier raised a couple of questions, and
21 I was taking notes. Because we've had some discussions
22 about some issues, but I'm learning of some things, so I
23 just want to be clear so that we can have further legal
24 discussions while the educators have education
25 discussions.

1 You believe that the graduation rate in SB509,
2 that reference is not clear? Is that true?

3 MS. GRANIER: That is true. I believe that
4 the -- that is not a defined term. And given the context
5 in which it was adopted, it requires either rule making or
6 for this body to consider other evidence, such as, you
7 know, "Who are the students behind the numbers being
8 identified as non-graduates?"

9 MR. OTT: Okay. And I apologize for my lack of
10 knowledge of the legislative procedure. Clearly you and
11 Director Gavin were in many hearings, while I was not.

12 Was there -- is there any testimony about a
13 request for clarification from the legislature as to
14 SB509's graduation rate? I mean, if it was unclear, I
15 would think that someone would have brought it up to the
16 legislature, since they were having closure be based on
17 something that the school doesn't understand.

18 MS. GRANIER: I haven't looked for that. I
19 think -- I believe everyone was acting under the
20 assumption that either there would be a rule making -- we
21 all know that the legislature doesn't define everything.
22 They leave most things to the agencies to define,
23 especially with respect to the laws that the agencies are
24 responsible for implementing.

25 But in addition to that, I think it was, again,

1 in the context of being considered with compelling
2 evidence, with evidence as to what information is behind
3 that singular number.

4 MR. OTT: Thank you. I would submit that it's
5 also possible that the legislature was using the
6 graduation rate as defined in the Federal regulations,
7 which is what the NDE reports. I think that's the term
8 that is basically understood. But we can agree to
9 disagree, and I don't want to highjack the discussion with
10 legal distinctions.

11 The other question that I wanted to ask is, you
12 continually -- or I guess another thing that I heard that
13 I guess is a little bit new, is the allegation that the
14 issuance of a notice of closure is a contested case.

15 Under 233b.032, which is the definition of
16 "contested case," which basically requires some sort of
17 administrative penalty and notice prior to that, my
18 understanding -- and I think our prior conversation was
19 that this is a hearing to -- regarding whether a notice of
20 closure issues.

21 Closure of the school would not be something that
22 happens at this hearing. It would happen at a subsequent
23 hearing after a cure period and after there was time for
24 discussions and evidence to be heard.

25 Your -- your contention today that this, in fact,

1 is a contested case would in fact require another notice
2 initially. Would that pre -- prior notice to this notice
3 also be a contested case?

4 MS. GRANIER: No. That's not my point. My point
5 is, whether it's 233b or through fundamental principles of
6 due process, there's an opportunity to present -- to have
7 notice, and an opportunity to present evidence to an
8 agency that is going to make a finding that results in an
9 adverse -- that creates an adverse consequence for an
10 entity and their rights. And that is what is happening
11 here.

12 So it's not -- it doesn't create this endless
13 spiral of notices. It is a matter of letting the school
14 know that there will be an -- a hearing on an intent, a
15 notice of intent to close, and then there is -- you know,
16 it's properly agendized.

17 And the reasons for the notice, as you've
18 provided in your backup last night, are presented to the
19 school so that we can come forward and present evidence
20 about why the notice of intent should close or not.

21 We appreciate the time that we've been provided
22 today, but it certainly was not a substitute -- especially
23 given one of the factors identified for -- for that due
24 process that I think is required.

25 MR. OTT: One final clarification. Deputy

1 Attorney General Greg Ott.

2 I appreciate that. So the hearing, you think, is
3 a -- an additional due process requirement, I'm assuming
4 under NRS 386.535, for the notice of closure to issue?
5 And then 233b gets you a second notice provision prior to
6 that first hearing. And there's no other process required
7 before that; right? So we're talking about notice, then a
8 hearing, then another notice, and then a hearing for
9 closure. Is that the process, as I understand you're
10 relaying it to me?

11 MS. GRANIER: Well, I wasn't relaying the whole
12 process to you, I was just making a point. And to be
13 fair, I haven't sat down and thought through the entire
14 process because, honestly, I believe I -- I know that
15 there is a cure. I know there is. If this Board were to
16 issue a notice of intent to close, yes, I understand there
17 is a cure period, and then there's a hearing before there
18 are closure -- you know, before the school actually
19 closes.

20 The point I am making, the single point I am
21 making, is that in order to issue a notice of intent to
22 close, this board must make a finding and it must make a
23 determination that there is a deficiency under the
24 statute, under SB509.

25 So it's got to take evidence. There's got to be

1 fair notice and opportunity for the school to understand
2 what the basis is of the closure, and come forward and
3 present evidence and information so it can be heard,
4 before the board makes a finding, that must be based on
5 substantial evidence, as to whether or not that deficiency
6 exists to issue the notice of intent to close.

7 It should not be simply, "There's a single number
8 here. It doesn't hit the 60. We're going to issue the
9 notice of intent to close, and then you can" -- "you can
10 have your hearing." I don't think that's compliant with
11 the law or good policy.

12 MR. OTT: Thank you. We can respectfully
13 disagree about whether additional process is required
14 before the statutory process is required under the
15 386.535. I just wanted to get a better feeling for how
16 far back you thought the process requirement went, so that
17 in the event that we do end up in further discussions I
18 can do a little bit of research and we can have productive
19 discussions.

20 So I think I get, now, that you foresee two --
21 two hearings for process, whereas I see there being only
22 one required under NRS 386.535 and SB509, and this would
23 be the initial notice phase, not the hearing phase.

24 I know that a lot of parents showed up here
25 saying that there was going to be a vote to close the

1 school. I don't want them laboring under the
2 misimpression. So I hopefully -- I tried to clarify that
3 with my prior comments at Silver State, and hopefully have
4 done a little bit more today to -- to ease some of that
5 concern. I know it's not all alleviated.

6 But I appreciate the dialogue here so that I
7 better understand your arguments, and hopefully the
8 parents better understand the legal distinction about the
9 process, and I'll try to take up no further time from the
10 chair.

11 CHAIRMAN JOHNSON: So is there any other further
12 discussion or questions for anyone here, either Director
13 Gavin, Deputy Attorney General Ott?

14 Member Conaboy.

15 MEMBER CONABOY: You know, if my mother were
16 here, she would say that it's just plain old good manners
17 to pick up the phone and call somebody when you are going
18 to do something contentious that will impact them.

19 We have four schools here this morning -- and I'm
20 only allowed to talk about three, but there are four
21 schools. In totality we are talking about affecting the
22 lives of 6,000-plus children and their families and the
23 school districts from which they come.

24 I think it's only common sense, as mom would say,
25 to give the schools prior notice and to sit down and talk

1 with them. And 99.9 percent of the discussion that's
2 being had here today could have and should have been had
3 before this issue even found its way to the agenda, from
4 my perspective.

5 And I've had multiple conversations with Mr. Ott,
6 and fewer conversations with Mr. Gavin of late, about this
7 topic, but everybody is harkening back to our founding
8 principle. And the founding principle of working with our
9 schools, building a strong charter school sector in this
10 state, allowing charter schools to flourish, implies and,
11 in fact, demands cooperation and collaboration with our
12 schools. So if we are going to proceed on notices of
13 closure, I am going to abstain on all four votes today.

14 CHAIRMAN JOHNSON: I think we are at a point
15 where we can actually make some decisions. Certainly we
16 want to entertain some -- a couple of different options in
17 terms of a motion.

18 Option No. 1, obviously, we continue this
19 discourse with the notice of closure, and we decide
20 whether we want to do that.

21 Director Gavin?

22 MR. GAVIN: Mr. Chairman, I am appreciative of
23 one or -- of many of Ms. Granier's comments. But if there
24 is some particular concern about one of the justifications
25 for one element of the -- of the backup, I would request

1 that, at the very least, that the Board take a "yes" vote
2 off the table while we can go back and make sure that that
3 is -- that that is addressed. I would not wish to -- to
4 undermine the effectiveness of a "yes" vote or the --
5 or -- and I realize I'm -- I'm losing my words, as it's
6 3:20 in the afternoon and we only have about 40 minutes
7 left before we have to evacuate this room.

8 So I would request (inaudible) that it's either a
9 "no," if that is your decision, or it is a vote to
10 continue.

11 CHAIRMAN JOHNSON: So I think there's a -- so,
12 given Director Gavin's recommendation and input, so it
13 would either be a "no" vote on this specific item, or we
14 can direct the -- I wouldn't say -- I would take a motion
15 to have us direct staff to go back and have further
16 conversation with -- with Principal Werlein and
17 attorney -- I'm sorry. I'm losing words, as well.

18 MS. GRANIER: Granier.

19 CHAIRMAN JOHNSON: -- with Ms. Granier, and then
20 this be taken off of the agenda, so --

21 MEMBER WAHL: Can I ask a clarifying question?

22 CHAIRMAN JOHNSON: Yes, Member Wahl.

23 MEMBER WAHL: So point of clarification. So,
24 Patrick, your contention is that that one issue that was
25 brought up -- nothing to do with all the graduation rates,

1 but the other thing that you referenced in them that they
2 weren't prepared for, that's the reason why you would have
3 us have a continuance?

4 MR. GAVIN: My -- well, yes. So the -- in
5 particular, the Subsection (g) of the statute, I want to
6 make sure that there wasn't an actual -- that -- since I
7 don't believe we have time before the end of the day for
8 me to sit down with counsel and make sure there was not
9 some kind of editing error or something like that in the
10 document --

11 MEMBER WAHL: Um-hum.

12 MR. GAVIN: -- I want to make sure that we --
13 that that is in fact what was intended, and it wasn't
14 something that was done inadvertently to -- and that --
15 and that Ms. Granier would, I would understand, be
16 concerned and confused about. And I don't wish to create
17 more problems.

18 MEMBER WAHL: Um-hum.

19 MR. GAVIN: Our intent here is to get the schools
20 to come to the table, to work through solutions, as was --
21 as -- as we believe the statute was designed to do.
22 And -- and so we -- I would respectfully request that you
23 either say "no" completely. Or whether you continue the
24 item, and should it come back at a later date, we will, of
25 course, make sure that if there is any -- if there's any

1 language change that needs to be made based on
2 consultation with counsel, that we do so.

3 And I will also commit that should that happen,
4 the school will get the information much further in
5 advance, and it will part of the ongoing discussion.

6 CHAIRMAN JOHNSON: Member Conaboy?

7 MEMBER CONABOY: Mr. Chair, I'm missing something
8 essential here. What good is a continuation going to do
9 us, for any of these schools? What it -- there's a 30-day
10 cure. These schools can't cure five years of
11 retrospective graduation rates in the next 30 days. What
12 good is a continuation going to do us? And they're going
13 to be back here with their lawyers talking about 233b and
14 the lack of due process until we all grow old sitting at
15 this table. I'm sorry. I don't understand. I think we
16 need guidance about a preferred action that needs to be
17 taken by the board.

18 I'm sorry to spring this on you, Mr. McGaw, but I
19 don't understand what a continuation will do for us, for
20 any of these schools. Because these are getting to be
21 very long meetings. We did this last month and the month
22 before, and it's not going to be different next month.

23 MR. MCGAW: For the record, Ed McGaw with the
24 Attorney General's Office.

25 I think with the continuance it allows you to

1 revisit this issue. If you do vote "no," and you do have
2 intentions that, if the talks break down and there is
3 substantial evidence to warrant revisiting this issue again,
4 I'd recommend that the "no" vote be qualified with the
5 idea that you could come back, based on whatever these
6 talks are, and revisit the issue of whether to issue the
7 notice of intent. Just to clarify the record, that a "no"
8 vote isn't saying, "We're not going to revisit this
9 issue."

10 And I think the continuance allows you to come
11 back, and the "no" vote, without any kind of explanation
12 or qualification -- you know, you want to say, I guess, in
13 essence, "without prejudice, you're voting no," so that
14 you can revisit this issue if circumstances and evidence
15 warrants it.

16 Does that answer your question?

17 MEMBER CONABOY: Only slightly. You've heard
18 today from several of these schools and from the
19 parents -- well, from the schools and their counsel,
20 particularly, that we don't have rules in place yet.
21 Mr. Gavin has started that process, but it's not finished.

22 What if we just decided that under 233b we need
23 to have regs so that the schools know the rules? So we've
24 got to take an eight-, six-, two-, four-, three-week or a
25 month or a year hiatus -- however long people think it

1 will take to get regs in place -- get our house in order,
2 have a process that people understand, and participate
3 with this board in bringing to fruition?

4 Regulated entities need to work with their
5 regulatory boards; right? Gaming, your regulated entities
6 work with you in the rule-making process.

7 We need to have structure around what we're
8 trying to do so we don't have a circus.

9 MR. MCGAW: Again, Ed McGaw with the Attorney
10 General's Office for the record.

11 And I think what I was trying to say is that if
12 you vote, you want to make it clear that, whether your
13 "no" vote here is saying, "We're just going to" -- "There
14 isn't enough evidence to bring the notice at this" -- you
15 know, or whether you want to, once the rules are in place
16 and once everything is established, that you can come back
17 and revisit this specific topic or based on these specific
18 results. And I think that's what the continuance would
19 accomplish.

20 But you can accomplish the same thing with the
21 "no" vote, and that would relieve the shadow of this
22 looming out there for you, at least for the charter
23 schools, until such time as you want to re-notice this for
24 a consideration of issuance of a notice of revocation.

25 If that -- I hope I answered your question a

1 little better?

2 CHAIRMAN JOHNSON: Member Wahl.

3 MEMBER WAHL: I am going to respectfully
4 disagree. I think we have laws in place. I think we have
5 contracts in place. I think it's obviously clear when you
6 start a charter school that your intention is to do right
7 by these children, to do right by the taxpayers, and that
8 a 30 -- I don't know where my papers are -- 33 percent
9 graduation rate is not acceptable. I just think that's a
10 standard that everybody should agree on. That is not
11 okay. The law says it's not okay. Our contract doesn't
12 want that. And I -- I don't know what good more
13 regulations and policies are going to do.

14 We don't have to intend it -- I mean, we don't
15 have to give them prior notice that we want to do a notice
16 of intent, a notice of closure. That's what today's
17 meeting is. We could carry this on forever and ever. I
18 don't want to.

19 CHAIRMAN JOHNSON: However, in relation to the --
20 the item that we have today, I think we do need to have
21 some sort of closure on the item itself to determine how
22 we are going to move forward. And so we could either, as
23 Mr. McGaw says, we could either vote "no" with some
24 qualification, or we can ask for a continuance of this,
25 which Director Gavin gave earlier. Either of which, I

1 assume, means that we are not going to be issuing that
2 notice of closure today. But it determines what the
3 pro -- what the steps will be in the very near future to
4 ensure that Director Gavin and the schools are working
5 together.

6 And then also, simultaneously we do need to, as
7 Member -- Member Conaboy mentioned, we do need to ensure
8 that we are getting our house in order and work on the
9 regulations, et cetera, which I think will be separate
10 from -- you know what I'm saying -- all the things that
11 Director Gavin will be doing with the schools.

12 So certainly I would be willing to entertain a
13 motion that would either, A, vote "no" on the possible
14 action to direct staff to issue a notice of closure, but
15 then also ensuring that we are directing the Authority
16 staff to work with our schools, or the motion of a
17 continuance.

18 MS. GRANIER: Member Johnson, could I just make
19 one comment? I apologize.

20 CHAIRMAN JOHNSON: Yes.

21 MS. GRANIER: I know you're deliberating.

22 I just want to address Member Wahl. We hear you.
23 And we are concerned. And we take that graduation rate
24 and the statutes very seriously, which is why we were,
25 like I said, at the legislature talking to Director Gavin.

1 We want to work with you. We want to work with your
2 staff. We are here to -- to try to talk through this and
3 reach a reasonable end.

4 We do agree that -- that rule making would be
5 appropriate. But we're working on improvement. We want
6 an opportunity to, you know, work on a plan of improvement
7 with a reasonable process, and some time. But we are
8 looking to increase our graduation rate, absolutely. We
9 just need appropriate time and notice and collaboration to
10 do that. Thank you.

11 MR. GAVIN: Let me -- let me -- and, again, I
12 also apologize for interrupting deliberation.

13 It is staff and staff's counsel's contention --
14 and, Mr. Ott, correct me if I -- if I am wrong -- that
15 while additional rule making is desirable and, in fact, it
16 is something that is required for us to do as a general
17 principle at this point -- there are rules in place.
18 There are plain and clear statutory definitions.

19 If we kick this can down the road, there will
20 always be changes. There will -- rule making will
21 essentially always be a -- this will always be an issue.
22 By the time the rules are established, the statute will
23 change again.

24 This is a structural challenge in a -- I mean, we
25 have a -- we have education committees in both houses of

1 the legislature. Every two years there are significant
2 policy changes. If we're going to be in a position where,
3 essentially, those policy decisions always neuter this
4 body's ability to do anything, then that's a problem.

5 I would -- I would contend that the -- that the
6 rules that are currently in place are sufficient for this
7 purpose, for something as clearcut as graduation rates.
8 And while -- and I -- and should this be something that
9 ultimately we are not able to settle, I would say this is
10 the kind of thing that should be litigated, because we do
11 need clarity on whether or not there is -- there are in
12 fact deficiencies in statute or policy or regulation that
13 should be addressed. And right now we've -- and -- and
14 should a court choose to provide guidance in those areas
15 based on a ruling, I think that would be valuable to us
16 and to the legislature.

17 CHAIRMAN JOHNSON: Thank you, Director Gavin.

18 So I would love to entertain some motions on how
19 we're going to move forward with Nevada Connections.

20 MEMBER WAHL: I'll make the motion.

21 CHAIRMAN JOHNSON: Member Wahl.

22 MEMBER WAHL: I'll make the motion that we are
23 continuing this item.

24 CHAIRMAN JOHNSON: Do I have a second of Member
25 Wahl's motion?

1 MEMBER ABELMAN: This is Member Abelman. I would
2 second that motion.

3 CHAIRMAN JOHNSON: Then all in favor of a
4 continuance -- a continuance of this item to a later point
5 in the future? I'll take a roll, because I think there
6 may be some contention here.

7 Member McCord?

8 MEMBER MCCORD: No.

9 CHAIRMAN JOHNSON: Member Conaboy.

10 MEMBER CONABOY: I'm abstaining in protest to
11 this process.

12 CHAIRMAN JOHNSON: Member Mackedon? Vice chair
13 Mackedon?

14 MEMBER MACKEDON: Yes. I agree with the
15 continuance.

16 CHAIRMAN JOHNSON: Member Luna?

17 MEMBER LUNA: No.

18 CHAIRMAN JOHNSON: Then it sounds like the nos,
19 have it, so that motion is denied. We are not going to be
20 able to --

21 MEMBER ABELMAN: Member Abelman.

22 CHAIRMAN JOHNSON: Member Abelman?

23 MEMBER ABELMAN: Yes. Yes.

24 MEMBER WAHL: And Member Wahl, yes. That was
25 three yeses to two nos.

1 (Inaudible.)

2 CHAIRMAN JOHNSON: Then I -- I will vote.

3 I'm actually going to vote "no" on that, as well.

4 I think it's -- so --

5 MEMBER WAHL: Then it's a tie. (Inaudible.)

6 CHAIRMAN JOHNSON: No, it's four, four-three.

7 One abstained.

8 (Inaudible.)

9 MEMBER WAHL: She's abstaining. It's three to
10 three.

11 CHAIRMAN JOHNSON: So now what do we do? We
12 have -- it is three to three. And do we have another
13 motion that comes with that? Do we have to take another
14 motion?

15 MR. MCGAW: It fails. So you will have to
16 bring --

17 CHAIRMAN JOHNSON: The a motion for continuance
18 is --

19 MEMBER WAHL: Then the next one is going to be a
20 "no," and it's going to be a three/three vote, and then
21 what?

22 MR. MCGAW: It amounts to no action on the
23 matter.

24 CHAIRMAN JOHNSON: So is there a better motion
25 that can come to the floor than --

1 MEMBER WAHL: Then we take no action.

2 MEMBER CONABOY: May I ask a question, Mr. Chair?

3 CHAIRMAN JOHNSON: Yes, Member Conaboy.

4 MEMBER CONABOY: I would like to ask Member Wahl
5 what she intends to accomplish with a continuation.

6 MEMBER WAHL: Member Wahl. What I want to
7 accomplish is not putting a "no" on the record, so that
8 they feel like we are giving them permission to have this
9 crappy graduation rate.

10 MEMBER CONABOY: And what would you like the
11 school to tell its parents who are considering where
12 they're going to send their children to school next year?

13 MEMBER WAHL: That they're sorry for the bad
14 performance they're doing.

15 CHAIRMAN JOHNSON: So then there is a different
16 motion that we could have where we could -- again, I think
17 we all agree that what we want to see is continued
18 conversation between the school and -- and the Authority
19 staff, to be able to work through this process. Whether
20 it's a continuance or not I think is -- I think we are, a
21 little, splitting hairs.

22 Member McCord?

23 MEMBER MCCORD: Question to the attorney general
24 if I could?

25 By taking a "no" vote on this at this point -- in

1 other words, taking no action on that -- it dies for no
2 action; correct?

3 MR. MCGAW: I believe it's still on the agenda.
4 So something has to be done to dispose of the matter.
5 Maybe my colleague could correct me on that.

6 MR. OTT: Deputy Attorney General Greg Ott.

7 My position, and what I've advised other boards
8 and councils that I've represented is that, without a
9 motion having been carried, the board has taken no action,
10 so it is as if the item was not gotten to for lack of time
11 or for other items, that the Board has not officially
12 taken an action in response to the item.

13 MR. MCGAW: And one option that is -- Ed McGaw
14 for the record. You can always remove it from the agenda.
15 It would -- if you wanted to do that, as well.

16 MEMBER MCCORD: Mr. Chairman, remove this item
17 from the agenda.

18 CHAIRMAN JOHNSON: Then I will -- actually, I
19 will remove the item from the agenda -- oh, you know,
20 before I do that --

21 MR. GAVIN: May we clarify?

22 CHAIRMAN JOHNSON: Just a second, Director Gavin.

23 MR. GAVIN: Sorry.

24 CHAIRMAN JOHNSON: If -- Mr. McGaw, if we --
25 could we still give directive to staff to begin to have

1 conversations around working with the school? Again, that
2 is the one thing we actually all agreed upon is that we
3 wanted to make sure that these conversations were being
4 had, and they were more robust. I don't think we've
5 agreed upon what the next best step is.

6 That was -- that was directed to you --

7 MR. MCGAW: I'm sorry.

8 CHAIRMAN JOHNSON: -- Mr. McGaw. Thank you.

9 MR. MCGAW: I was in my own world there. Could
10 you repeat the question? I was rethinking everything.

11 CHAIRMAN JOHNSON: Without taking action on this
12 specific agenda item, could we -- could we still direct
13 staff to have additional conversations to try to get clear
14 on -- on the processes, and then also what the graduation
15 rates and et cetera, other -- other academic performance
16 that need to be and are?

17 MR. MCGAW: Yes, Mr. Chairman. That's fully
18 within your discretion.

19 CHAIRMAN JOHNSON: Director Gavin, you wanted to
20 add something else?

21 MR. GAVIN: Thank you, Mr. Chairman.

22 My primary question was actually not about this
23 whole directing of staff thing, but specifically about
24 making sure that by saying that we're taking -- that if
25 the Board is saying -- the question is: Do you wish to

1 take no action on this agenda item in its entirety, or
2 simply this -- the elements related to Nevada Connections
3 Academy? I wish to just be very clear.

4 So I could understand the board wishing, based on
5 lots of things, to choose to -- to just remove this in its
6 entirety. I just wanted to be very clear about what your
7 expectation was.

8 CHAIRMAN JOHNSON: Member Conaboy?

9 MEMBER CONABOY: Mr. McGaw, I've disclosed
10 previously that I represent K12, Inc., which is the EMO to
11 Nevada Virtual. Am I allowed to make a motion on this
12 entire agenda item, or do I need to sit back?

13 MR. MCGAW: I think because the agenda item was
14 meant for each item to be heard individually, that you
15 would have to abstain from the conflict, from that one,
16 but you could vote on the others.

17 MEMBER CONABOY: Just to be clear, I can't make a
18 motion that we postpone this entire agenda item until we
19 have our rules in place?

20 MR. MCGAW: I would say, again, on the ones that
21 can you vote on, you could make that motion. But the one
22 that you cannot, I would advise against it.

23 MEMBER CONABOY: Okay.

24 CHAIRMAN JOHNSON: Vice-Chair Mackedon?

25 MEMBER MACKEDON: Member Mackedon. I feel like

1 we are going to have this same conversation two more
2 times, so I would make a motion to postpone the entirety
3 of Agenda Item 6 until --

4 I would like to just inquire from Patrick, if you
5 feel like it's more appropriate that -- because obviously
6 this is going to come with a, you know, "Please work with
7 the parties involved" conversation. Is it more
8 appropriate for the April or May board meeting, just
9 thinking about everything else that's going on?

10 MR. GAVIN: I would -- and here is where I
11 struggle. I think, given the items that are already
12 slated for the April Agenda, that it would be challenging
13 to have a robust commutation.

14 Let me be clear. I think, regardless of --
15 unless -- unless there is a true meeting of the minds with
16 regards to a pathway forward that fixes the structural
17 issues and the performance issues, I do not -- I think it
18 is unlikely that staff and staff's counsel will concur
19 with the procedural objections raised by the schools.

20 I would also note that there are different --
21 that different schools are at different points on this,
22 and some are more willing to be collaborative on this in
23 the interests of children than others, and have
24 demonstrated that.

25 So I think May is the most appropriate timeline,

1 just given everything that we have to do. But that said,
2 what is discomfoting about that is that this creates yet
3 more uncertainty for parents. And that is something that
4 I think is a -- is a very tough thing.

5 There is a timeline on which these data points
6 become available. It is not ideal for these kinds of
7 decisions. That will always be an issue. And it is --
8 and it creates a wrenching experience for parents who --
9 many of whom, it is quite apparent, are having good
10 customer experiences at these schools, even if there is a
11 substantial subset of kids, who may or may not be
12 represented here, who have not been as successful.
13 Clearly there is a subset of parents for whom each of
14 these schools is wildly successful.

15 And many of the points that the school raises, I
16 think are important policy questions to be raised in the
17 2017 legislature, about, you know, "What should a virtual
18 school be?"

19 We had testimony from multiple parents saying
20 that these kinds of schools aren't for everybody.
21 Technically, it is a public school. It is supposed to be
22 for everybody as a -- as an open-admission public school.

23 That is a tension between the experience of the
24 satisfied customers who are getting what they asked for,
25 versus the ones who are not getting what they asked for,

1 or not -- or where the State is not getting what it asked
2 for. And that is an important issue.

3 And I -- and I applaud all these parents for
4 coming up and talking about the very good experiences
5 they've had at Connections, at Nevada Virtual, at Beacon,
6 at Silver State. I don't think anyone in this room -- and
7 certainly anyone on this staff -- thinks that -- that
8 these schools are -- have done terribly by every kid. But
9 there clearly is a subset of kids for whom this isn't
10 working, and it is a very large subset, particularly in
11 the case of Connections.

12 So, again, I think to answer your real
13 question -- sorry, Member Mackedon, I totally -- I totally
14 got off on a soliloquy here -- May is probably the right
15 timeline in terms of being able to have some meaningful
16 dialogue. I am hopeful that in the interests of kids and
17 in the interest of performance we can work around the
18 procedural objections and look at what it actually takes
19 to ensure that these schools are doing better by kids.

20 And so that -- and that is what staff is -- is
21 very willing to work with, with school (inaudible). But
22 there are many things that are out of our control and that
23 we cannot promise. And there are expectations that are on
24 us and on this body that we are expected to deliver on.
25 So, again, May.

1 MEMBER MCCORD: Mr. Chairman, I return to my
2 original item, and that is to pull this item with no date
3 certain for a return of the item. That does not preclude
4 us from having this item on the agenda again. But I would
5 suggest that we pull the item and move on.

6 CHAIRMAN JOHNSON: Member McCord, is that a
7 formal motion that you are making?

8 MEMBER MCCORD: It certainly is, sir.

9 CHAIRMAN JOHNSON: All right.

10 MEMBER MACKEDON: Member Mackedon. Second.

11 CHAIRMAN JOHNSON: So all in favor of pulling
12 this?

13 Now, can we just have some clarification, please,
14 Member McCord? Is that pulling the agenda item for all of
15 the four schools in question or just --

16 MEMBER MCCORD: I assume so, yes.

17 CHAIRMAN JOHNSON: Okay. I just wanted to make
18 sure we're clear. That was the last point of distinction
19 in the past.

20 Member -- Member Mackedon, you seconded that?

21 MEMBER MACKEDON: Um-hum.

22 CHAIRMAN JOHNSON: Before we take a vote, any
23 discussion?

24 MS. GRANIER: Thank you. Thank you, Chairman.

25 And I -- I just want to be very clear. I just want to be

1 very clear that we asked for the directive that staff work
2 with us, so we don't intend to lose any time, to address
3 Director Gavin's statement about, "in the interests of
4 time." We wanted to get to work last September. We will
5 get to work right away. If we can get staff to sit down
6 with us, we'll be there at their first convenience. So I
7 just wanted to -- okay.

8 MEMBER MCCORD: We don't plan to lose focus on
9 deficiencies.

10 MS. GRANIER: Yes, Member McCord.

11 CHAIRMAN JOHNSON: All in favor of Member
12 McCord's vote?

13 Member McCord, obviously I'll take your vote
14 first, in terms of pulling this item from the agenda and
15 with no --

16 MEMBER MCCORD: Yes.

17 CHAIRMAN JOHNSON: Member Conaboy?

18 MEMBER CONABOY: At member's -- or at counsel's
19 direction, I will abstain.

20 CHAIRMAN JOHNSON: Member Mackedon?

21 MEMBER MACKEDON: Yes.

22 A VOICE: Who was the second?

23 CHAIRMAN JOHNSON: Member Wahl?

24 A VOICE: Mr. Chairman, did somebody second this
25 motion?

1 CHAIRMAN JOHNSON: Member Mackedon.

2 A VOICE: My apologies. I just --

3 CHAIRMAN JOHNSON: Member Wahl?

4 MEMBER WAHL: I'm a no.

5 CHAIRMAN JOHNSON: Member Luna?

6 MEMBER LUNA: Yes.

7 CHAIRMAN JOHNSON: Member Abelman by telephone?

8 Member Abelman, are you still with us?

9 Member Abelman, last chance.

10 Danny, did you have anybody hang up on the line

11 there?

12 MR. PELTIER: Not that I know of. And I have no
13 messages from Member Abelman saying he was disconnected.

14 CHAIRMAN JOHNSON: I'll cast my vote. I'm a yes
15 on that. So I vote to pull this item from the agenda with
16 no -- with no stated date.

17 MR. PELTIER: Chairman Johnson, for the record --

18 CHAIRMAN JOHNSON: Member Abelman?

19 MR. PELTIER: -- Member Wahl's microphone I don't
20 believe was on for her vote. What was her vote?

21 MEMBER WAHL: Member Wahl was a no.

22 CHAIRMAN JOHNSON: Member Abelman, are you there
23 now?

24 At this point we have four yeses, one no, one
25 abstain, and one no -- one non-vote.

1 I think he's going to join. I don't think we can
2 take his vote by text, however.

3 That said, the yeses carry to pull this item from
4 the agenda, and then we will move forward.

5 (Inaudible) five-minute recess or are you good?

6 All right. We'll -- thank you.

7 (End of Partial Transcript - Agenda Item No. 6)

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1 STATE OF NEVADA)
) ss.
2 COUNTY OF WASHOE)
3

4 I, MARIAN S. BROWN PAVA, a Certified Court
5 Reporter in and for the State of Nevada do hereby certify
6 that transcribed from a video/audio recording, the
7 proceedings relating to Agenda Item No. 6, in the matter
8 of Nevada Connections Academy, held before the Nevada
9 State Public Charter School Authority March 25, 2016; that
10 the foregoing partial transcript, consisting of pages 1
11 through 102, is a true and correct transcript of the
12 stenographic notes of testimony taken by me in the
13 above-captioned matter to the best of my knowledge, skill,
14 and ability.

15 I further certify that I am not an attorney or
16 counsel for any of the parties, nor a relative or employee
17 of any attorney or counsel connected with the action, nor
18 financially interested in the action.

19 Dated at Reno, Nevada, this 11th day of October,
20 2016.

21 
22 _____
23 MARIAN S. BROWN PAVA, CCR #169, RPR, CSR #4525
24
25