

NEVADA STATE PUBLIC CHARTER SCHOOL AUTHORITY

TELECONFERENCED OPEN MEETING

FRIDAY, JULY 29, 2016

CARSON CITY, NEVADA

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CARSON CITY, NEVADA; FRIDAY, JULY 29, 2016; 9:00 A.M.
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CHAIR JOHNSON: We'll take roll here.
Vice-President Mackedon?

VICE-CHAIR MACKEDON: Here.

CHAIR JOHNSON: Member Conaboy?

MEMBER CONABOY: Present.

CHAIR JOHNSON: Member Luna?

MEMBER LUNA: Present.

CHAIR JOHNSON: Member Snow?

MEMBER SNOW: Present.

CHAIR JOHNSON: And Member Corbett is on his way. So we can begin our agenda with public comment. I have two items submitted already, one from Chris Orme. Is it O-r-m-e? Okay. I'm sorry? Chris Orme. I apologize. And then also from Noah Stevens. You both can come on up. And make sure you press the button in front and state your full name for the record, please.

MR. ORME: All right. Can you hear me? Okay. My name is Chris Orme. I'm an attorney at Hutchison & Steffen. I represent a company called Tower Distribution Center, which is the landlord for Quest Academy, and currently, there's a problem with Quest Academy in that they haven't paid -- they haven't made

any payments to their landlord for the last nine months, which is resulting in litigation and causing a little bit of a scare because school is ready to start in three or four weeks.

And so despite multitudes of settlement propositions and actions, we've offered to sell the property to them, we've offered to affirm the lease, we've offered them a one-year walkaway, we've offered them a straight walkaway. We just think at this point something really needs to be done because they're soliciting children to come to school, but they're in the midst of a foreclosure action which will be coming in the next week or two. And with that, I don't have any other comments.

CHAIR JOHNSON: Which campus is that, Mr. Orme?

MR. ORME: Torrey Pines.

CHAIR JOHNSON: Torrey Pines. Thank you, Mr. Orme.

MR. ORME: Thank you.

MR. STEVENS: Good morning, everybody. My name is Noah Stevens. I'm with Coral Academy of Science, and I'll be the principal at our new Centennial Hills campus up in the northwest, and I'm just here this morning to express my gratitude to you guys for allowing

this opportunity to take place.

To give you an update, we are at capacity as far as enrollment goes for our very first year, over 600 students, and we already have a respective waiting list forming, so we're extremely humbled and thankful for you guys and looking forward to an amazing year. Our first day of school is August 22nd, and we're doing a grand opening on Thursday the 25th, and I'd love for you guys to be there for that, and I'll send you an e-mail invitation. So thank you very much.

CHAIR JOHNSON: Thank you, Mr. Stevens. All right. I have several more. Zachary Hammer. Maybe it's Hummer? Tamara Hummer? And then Elizabeth Kazlisk (pho.)? I apologize if I hammered the name.

EXECUTIVE DIRECTOR GAVIN: Mr. Chairman, in the interest of ensuring the court reporter can have an accurate record, could you also ask people making public comment to spell their names as well just for the record since the court reporter isn't here.

CHAIR JOHNSON: Will do. There's a button right in front of you.

MS. HAMMER: My name is Tamara Hammer.

CHAIR JOHNSON: Would you mind spelling your name so the court reporter can get that for the record, please?

MS. HAMMER: T-a-m-a-r-a H-a-m-m-e-r.

CHAIR JOHNSON: Thank you, Ms. Hammer.

MS. HAMMER: And I'm a parent at Coral Academy of Science, and thank you very much for this wonderful school that my children have been able to go to for eight years now. And I would just like to say that we would like to see an expansion. We would like to continue to have more students be able to have the opportunities that my children have been able to have.

I have a tenth grader and a sixth grader, and when we first enrolled at Coral Academy, little did I know what we would be getting academically, and my children are challenged on a constant basis. And what I love about Coral is the fact that my children not only love going to school, they're challenged every day at school, and they get a lot of support from the teachers. It's amazing, the administration and the teachers that my kids have every day, and I'm very grateful for it.

CHAIR JOHNSON: Thank you.

MR. HAMMER: Hello. I'm Zachary Hammer: Z-A-C-H-A-R-Y H-A-M-M-E-R, and I've been a student at Coral Academy since third grade. And I love Coral Academy, every aspect of it from the class sizes, which are around 20 to 25, which allows you to be intimate with your teacher, and if you ever need any help, you can ask

them at any time and they'll help you.

And then from the extracurricular activities, you have like National Honors Society, the College of Leadership program, and then there's lots of other clubs, and then there's also athletics. I'm part of the basketball team. There's also soccer and lacrosse and many other sports. And so lastly, academics, every aspect we're challenged at, and they will tailor your academics to challenge you the most and fulfill your potential.

And so I feel like -- because I've talked to my friends like Green Valley and stuff like that, and they have -- their class sizes are 40, 45, and they're struggling learning. And here, we have, you know, like I said, 20, 25, and you can learn a lot better, and like I feel like if we expand our school, it will just get more opportunity to learn like I have. Thank you.

CHAIR JOHNSON: Thank you, Zachary. Always great to hear from students who are doing well. I think that's the reason we're all here. So we appreciate it. Elizabeth, are you here? Okay. Then we have Ben Salkowe and Yolanda Flores.

MR. SALKOWE: Good morning, Chair and Members of the Board. My name is Ben Salkowe: S-A-L-K-O-W-E. The Ben part is: B-E-N. I'm principal of Equipo Academy

and just wanted to comment on a couple of things. The Authority has clearly recognized that there's too few students in communities like East Las Vegas and is in danger of perpetuating the inequities seen in traditional school districts in our state, and I think this has now been reflected in your member comments, it's been drafted in the strategic plan, and the Authority should be commended for this renewed commitment. I appreciate it. Thank you. Now, we need to make it all happen, and I want to advocate that more accurate metrics be chosen than the ones that were recommended to you today.

Under the proposed metrics, a new school in Incline Village that's weighting its lottery in favor of students living in poverty would be celebrated even if no students qualifying for the exemptions apply because their families cannot afford --

CHAIR JOHNSON REPORTER: I'm sorry. Can you slow down, please.

MR. SALKOWE: I'm timing myself this time. To live on a lake. Under the proposed metrics, a school in Green Valley, that proposes to serve English Language Learner students without providing transportation for those students in the urban center to actually get to the program, is celebrated merely for having an at-risk mission. These process-based measures make it too easy

for us to cheat ourselves from meeting good goals.

We want to know if our schools reflect the demographics of our entire communities. So we need to be bold. Say we will actually measure whether the actual enrollment subpopulations match or exceed the diversity and the special needs and counties in which we are building our charter schools.

MEMBER CONABOY: Mr. Chair, I'm sorry to interrupt, Mr. Salkowe, but the court reporter certainly can't keep up with him. I know -- I see that he's reading from prepared statement. Perhaps we can make sure that we get that for the record, but also, maybe he could slow down just a little bit, please.

CHAIR JOHNSON: Mr. Salkowe?

MR. SALKOWE: Thank you, Mr. Chair. Right now, nearly all of the schools and expansions the staff have recommended to you today do not meet this bar. Approving them puts you further from your goals. That is not a valid reason not to approve them, but it does mean we have a problem recruiting the kinds of applicants and expansions we most need. You have articulated a commitment to correcting inequities in our charter landscape. Choose metrics that challenge us to do the hard work of maintaining that commitment. Shine a spotlight on the problems and do not allow school

founders to avoid serving the students in our state for whom school choice isn't just nice to have, but is perhaps the only shot they have at positive educational outcomes.

I also want to comment on any potential increase to your sponsorship fee. I would challenge you all to approach this discussion progressively. Schools like Equipo and Mater already must budget for costs that a school in a more affluent community does not. For the newcomer from Guatemala who shows up midyear, for the ninth grader who is sick and absent half a semester because she can't afford the medical care she needs, or for the sixth grader six years below grade level because of his elementary feeder.

These are unique challenges for the budgets of city schools like ours and to increase the percentage of those budgets that's taken to expand an Authority predominately serving white students in our suburbs... that is regressive. If we want to get serious about the new objectives in the strategic plan, why not create a fee schedule and support students in the schools we need more of by reducing their fees, and ask schools in our more affluent communities to step up and support their neighbors who need more choice. Then the Authority has the budget it wants while creating an incentive for new

schools to consider serving the students who need them most. Then you're really competing with the other authorizers who are working towards the same positive end goal.

That's just one idea. But whether or not you get creative, I commend you for your clear commitment to Equipo Academy, to our families, and the families we don't yet have seats to serve. They're waiting for your action and for ours, so I hope you'll be careful with these discussions and engage schools like ours in your decision.

CHAIR JOHNSON: Thank you very much, Mr. Salkowe. Ms. Flores?

MS. FLORES: Y-O-L-A-N-D-A F-L-O-R-E-S. I'm the new principal at Coral Academy, our Sandy Ridge campus, so I'm here this morning just to talk a little bit about being thankful for your consideration on our expansion. I joined Coral Academy in June of this year, so I'm still fairly new. My introduction to them was actually one of our graduations where I got to meet Brennan Rosales, who is one of our students who is now MIT bound, a varsity basketball star, 5.0 GPA, incredible all-around kid, and I had a chance to actually have discussion with him.

So I'm glad that you got to meet Zachary

because our school is full of Zacharys and Brennans and students who have just had such a great opportunity to have a school that really works to enrich those things that they are passionate about and help them discover kind of who they are and make them well-rounded individuals. Currently, we're a 6 through 12 campus, so we've got middle school and high school on the same campus, and we're hoping to be able to divide that to give high school students really a high school experience. And I think that they've already had the opportunity to have a sports program and to have great classes, but we're pretty much at capacity right now. We can't expand course offerings, can't do much more because every single classroom, multipurpose room, cubby that we have is really being filled with great teaching, and students are really benefitting from that.

So I think it's very much time to give high school their own space and be able to give more local students really the opportunity that all of these other kids have to really be the best that they can and provide the great teachers that we have and the services that we have. So I just wanted to share some more of those stories with you if you're considering our approval for that expansion. Thank you.

CHAIR JOHNSON: Thank you Ms. Flores. All

right. That is our public comment. I actually will take a motion for flexible agenda.

VICE-CHAIR MACKEDON: Member Mackedon. So moved.

CHAIR JOHNSON: Do we have a second?

MEMBER LUNA: Nora Luna. I second.

CHAIR JOHNSON: All in favor of a flexible agenda?

THE BOARD: Aye.

CHAIR JOHNSON: All right. We have someone joining by telephone?

MEMBER GUINASSO: Jason Guinasso here joining by telephone.

CHAIR JOHNSON: Jason, very good to have you. Thank you. All right. With the flexible agenda then, I will take a couple of these items out of order. I'd like to begin with Agenda Item No. 11, which is consideration and possible action of the Founders Academy charter contract amendment request to add one or more educational management organizations.

EXECUTIVE DIRECTOR GAVIN: Mr. Chairman, Patrick Gavin, for the record. Thank you so much for being willing to take this item out of order. I know the school is deeply appreciative of it. NRS 388A.030 defines an educational management organization as a

for-profit business, organization or other entity that provides services related to the operation and management of charter schools and achievement charter schools.

Additionally, NRS 388A.393 expands on this definition to include several other kinds of entities and service providers who provide services to charter schools. And there's a lengthy citation of that particular language, but the long and the short of it is that it broadens the definition to include for-profit and nonprofit organizations and any entity which directly employs and provides personnel to a charter school or proposed charter school.

Based on guidelines from counsel, this includes a broad range of vendors. It may include but are not limited to LLCs formed by retired educators to contract with schools so, for example, a principal that forms her own LLC to be able to contract after going through retirement, providers of back office financial management services, and nonprofits that are affiliated with the school and provide services either for a fee or on a reimbursement basis. So this would, for example, potentially include a foundation that is created by a school which leases employees back or a foundation created by a school that also serves as the landlord for the school.

The NAC requires a number of contractual elements related to the approval of charter schools that are contracting with EMOs, including sponsor approval of such contracts and amendments therefore to the written charter or charter contract for the school. Founders Academy, which is before you, has identified two contractual relationships which require this review and approval by the Authority. These are a contract with Charter School Management Corporation, which is a national provider of back office financial management services to charter schools. Their offering is not dissimilar to that provided, for example, by Academica and Nevada LLC, a well-recognized educational management organization in the state of Nevada.

Secondly, the school has identified a contract with Founders Education legacy Inc., which is a 501 (c)(3) entity created by the school to serve as a fundraising arm for the school. The school has also entered into a leasing relationship with that entity whereby it leases retired public employees including licensed educators through that foundation. This leasing of employees does constitute the provision of personnel to the charter school and results in FEL functioning as an EMO for Founders.

From a national perspective, it is not

unusual for sponsors to need to approve these kinds of contractual relationships, and in fact it is quite common in other states for schools to have multiple such relationships that get entered into as listed subcontractors. The agency is in receipt of a letter from the school identifying the need for this amendment and requesting it. This request is compliant with the requirements of both statute and regulation. The agency recommends the approval of these contracts and the issuance of a charter contract amendment. It is important to note that there are some potential issues that the school has identified and the agency has identified as well, most notably, Founders Academy and historically Founders Education Legacy have had overlapping board membership. The school recognizes that there is the potential for conflict and perception of a less-than-arm's-length transaction on this matter, and they have agreed as a condition of amendment to completely separate the entities so that there is no overlapping membership, thereby avoiding some of the issues which have come up to a perception perspective if not an outright compliance issue related, for example, to the Quest Academy situation with their foundation.

Staff recommends approval of this amendment and requests that the agency do so, the Authority to do

so so the school can get on with this as quickly as possible.

CHAIR JOHNSON: Any discussion?

VICE-CHAIR MACKEDON: I was going to make a motion.

MEMBER CONABOY: I have a question, Mr. Chair.

CHAIR JOHNSON: Yes, Member Conaboy.

MEMBER CONABOY: Director Gavin, could you just explain to us the value of having a related 501 (c)(3) lease employees to you? What's the purpose behind that?

EXECUTIVE DIRECTOR GAVIN: Member Conaboy, that's ultimately a business decision that is at the discretion of the governing body. One could hypothesize several reasons for that, the most notable of which would be there is a general prohibition on public employees, in particular, retired educators coming back to work for schools after they have entered -- after they are taking money from PERS. And it is permissible under the law to the best of staff's understanding for those individuals to instead be essentially leased to a third party. But I would rather defer to the school for their particular rationale for doing this.

MEMBER CONABOY: That's sufficient. So this

is essentially a work-around on the shortage of teachers?

EXECUTIVE DIRECTOR GAVIN: Again, I think it would be appropriate for -- since it's the schools up at the table if they would like to explain their rationale.

MEMBER GEIHS: Mr. Chairman, Members of the Board, thank you. Jeff Geihs for the record.

CHAIR JOHNSON: Would you mind spelling your name for the court reporter.

MR. GEIHS: Yes. G-e-i-h-s, Jeff, Founders board member and secretary of our board. Also, I just want to make it clear for the record I'm assistant chief of the Clark County School District, and I took a personal day to be here.

CHAIR JOHNSON: Thank you so much, Mr. Geihs.

MR. GEIHS: So the purpose of hiring or being able to hire retired teachers -- and that's a wonderful question, I'm so glad that emerged -- was because, you know, there is a teacher shortage. We're not competitive with salaries that we offer at Founders relative to even the Clark County School District. And when somebody is collecting their PERS contribution, not that they're getting, that they've paid into, and they're now collecting, we can hire the cream of the crop or at least consider the cream of the crop from the retired field.

MEMBER CONABOY: Thank you, Mr. Chair. That

really helps me understand the purpose.

CHAIR JOHNSON: Any other questions?

MR. HESIAK: Can I make a comment before a motion is entertained?

CHAIR JOHNSON: Yes.

MR. HESIAK: Marc: M-a-r-c. Last name: H-e-s-i-a-k. And I will speak as slowly as possible for the court reporter's benefit. I understand that because I'm an attorney. First, look. I want to make a comment that I think or the theme of my comments goes to one of the points that staff makes in its brief on this issue is that a broad definition of education management organization is going to end up capturing a large number of vendors who provide services to charter schools and anyone with experience in the charter school industry would look at and say those are not EMOs. And I think this is possibly the result of some unfortunate drafting by the legislature. It's not the result of anything that anyone in this room did unless anyone was involved in that session.

And I also want to say thank you to staff for working with the school on this in a non-adversarial manner, for recognizing that there's no bad faith here, we're not trying to slip one past anybody. We don't have an EMO. But what I am concerned about and I think

there's some tacit recognition of this by staff is the precedent that this sets in terms of the definition of what is an EMO. And I think this is, quite frankly, going to be of concern to all of the folks that are speaking after this because this is not purely an issue of sponsor approval of a contract. This is an issue of defining third-party vendors of a multitude of services adds EMOs.

So I don't need to repeat the entire statutory language that Mr. Gavin already spoke to, but there are some words that I particularly want to emphasize. And so if you start with the definition in 388A.030, it talks about operation and management. But there's a little more detail in Section 393 of Chapter 388A. And what it says is the operation, Management, provision, implementation of educational services and programs. Okay? And the reason that's important is there are a couple of issues in terms of statutory or regulatory interpretation. Two things that the Authority should consider in determining whether or not a 501 (c)(3) that raises funds and leases employees to a school or an accounting firm is just basically what we use CSMC for are actually EMOs. And the first is -- and these are -- the Nevada Supreme Court has said both of these things multiple times when there's a question of interpretation

of an ambiguous statute or regulation.

One, that the agency in charge with administering the statute and regulation is granted quite a bit of deference as to the interpretation. And two, that any interpretation put forward needs to be reasonable. The language the Court actually uses, "To avoid an absurd result." And I don't want to accuse anybody of being absurd because I read the language too, and I understand the interpretation. But first, so as is noted in the briefing memorandum, the Founders Education Legacy is a 501 (c)(3). It does two things. It tries to raise funds. And sometimes it succeeds, not as often as we would like, and the second thing that it does is it provides cost-free employment leasing of employees who otherwise would have issues coming to work for our school, but who we think are imminently qualified.

The reason the legacy does that is to avoid paying a third-party vendor a certain percentage, 6 percent, 8 percent, maybe more, just for the purpose of having an employee. So it's a cost-saving mechanism.

CSMC basically does services that are constrained to the universe of accounting bookkeeping, budget, those kinds of things. They help us crunch numbers. They do not come in and direct our curriculum. They do not tell our principal what to do. They do not

tell our teachers how to teach. But under the current definition that's being proffered today, both of those organizations are now EMOs. The issue with that is once this Board accepts that definition, not only do you capture all of these other vendors as EMOs, because let's face it. If somebody who provides accounting services is an EMO, then every charter school in this room here that uses an accountant, that accountant has now unwittingly and probably unwilling become an EMO.

If you want to slide down the slippery slope a little further, a third-party vendor of janitorial services or food services is quite possibly going to become an EMO. I submit -- and I see staff nodding their heads that that is not a reasonable long-term interpretation or definition of EMO, and this board has the Authority to say yes or no. Yes, that is an EMO, no, that is not an EMO.

I would propose a narrower definition that's based on the language of 393 that if an entity provides services in the operation of educational services and programs, in the management of educational services and programs, or provision and implementation of educational services and programs, that is an EMO. Not every vendor that comes in and provides any service that may help the lights stay on. The Legacy and CSMC are not doing any of

these things. They are not helping operate educational services and programs or manage educational services and programs or implement educational services and programs. These are, as the staff has said, these are sort of back-of-house vendors who provide a very narrow range of services, and I'm quite sure that other charter schools have similar arrangements to accomplish their goals rather than trying to do everything in-house.

And another point that I want to make, Charter School Management Company, CSMC, provides services for hundreds of charter schools across the country and has never been deemed to be an EMO that we know of. Nevada would be the first state to define them as an EMO.

So, look. This is not about Founders Academy. We can go ahead and amend our contract and move on, and we'll be fine. But what I think we need to consider is the effect that this is going to have on an already stretched staff, a stretched board. You have over a dozen agenda items today. I'm sure this will not be a small meeting, in no small part because of my rambling. I apologize for that. But down the road, what you're going to have now is every charter school in Nevada is going to have to look down their list of vendors and submit an application to staff saying, "Well,

you know, now we've got to look at every one of these contracts and now every one of these vendors has to be an EMO," and they're going to come in front of you and clog up your agenda every time they want to change one of those vendors, which, you know, when you're trying to save money can be at least once a year. We're always looking to save money and change vendors if that's the best thing for the school and for the kids.

So this is concerning to me not just as a member of our board, but as somebody who believes in the charter school movement and who wants to see the resources deployed in a way that helps authorize new schools and encourages operators who currently want nothing to do with Nevada to come into Nevada and open schools and expand the charter school movement so that we can demonstrate that educational choice is valid and important and something that we should all take very seriously given the State's history of poor results in terms of educating our kids. And if there are no questions, that's all I have.

CHAIR JOHNSON: I actually have a question. You mentioned really briefly at the very beginning, you said that part of the reason -- Dr. Geihs mentioned part of the reason why you're doing this is to -- the imminent teacher shortage, and so one of your vendors will --

Legacy will be providing teacher services. So if they are providing teachers, in effect, they are implementing education management services then; correct?

MR. HESIAK: So the Legacy is simply a payment mechanism, and I anticipated the question, and I thought about that issue overnight. So Founders Education Legacy does not choose teachers. It does not tell the school, "These are going to be the five teachers that you hire." The school will identify or retired teachers will come to the school and want to work there. And the Founders Education Legacy is simply a -- I think somebody characterized it as a work-around. It's simply a way to route funds so as to allow someone who has earned a full pension from PERS, who is fully vested, to receive their pension and continue to educate. That's what it is. And I understand the question and --

CHAIR JOHNSON: It's acting more like an escrow account.

MR. HESIAK: That's a very good analogy. Yes. It's basically a place where money sits until it's paid to the teachers. We don't take -- it gets zero out of the deal. There is no account that climbs every time, you know, a check goes from the Legacy to the teacher. It is purely -- the teachers don't work for the Founders Education Legacy. They work at the school. The school

chooses them. We use our 501 (c)(3) as a mechanism to route funds through them.

And again, if the Board decides that's an EMO, fine. We'll include our contract, but I would say there's going to be hesitation from other employee leasing organizations to provide those services to charter schools who may really need them.

CHAIR JOHNSON: Go ahead.

MR. MORENO: If I could, this is Richard Moreno, Chairman: M-O-R-E-N-O. Just a quick example. We have a doctor on staff, a former veterinarian. When he retired, he wanted to teach biology, so he got his teaching certificate and credentials, and he spent some time and he's now fully vested in PERS. So if this gentleman comes to work for us, then we have to use this mechanism.

If he went back and opened up his practice as a doctor, he can make millions of dollars a year without having to bump into PERS and the regulations of PERS. So that's one of the examples of the tremendous teachers that have been able to -- and I think so a lot of schools, I would say probably 60 percent of your principals and your charter school principals are former public employees. So that's just an example of what we're doing here.

CHAIR JOHNSON: Thank you, Mr. Moreno.

Dr. Gavin?

EXECUTIVE DIRECTOR GAVIN: Patrick Gavin, for the record. The staff concurs with the concerns raised by the school, that this -- the definition as it currently stands in statute is extraordinarily broad, and it conflates two separate categories or actually multiple categories. There is an EMO, which is sort of what we all kind of know as a proprietor, basically a comprehensive management service provider.

I will note that this is also complicated by the -- we have, as was noted in the briefing and as the school has noted, we have slightly contradictory language that's going on here. And I just want to be clear about what that's coming from. The definition that was -- that more narrowly determines what an EMO is was actually part of the Achievement School District Bill, AB 448 in the last session, and it appears that while everything else in the ASD bill talked strictly about achievement charter schools, someone thought it was a good idea to include regular charter schools under this. I would submit that that is, in essence, we were not involved in that bill and did not take a position on it. I think we were a little shocked when we saw this was codified in our section of statute.

And then there's the larger set of issues that Mr. Hesiak has commented on. With the very broad definition which conflates EMO, educational service provider, and just about any other vendor that does anything for a school, whether it's human beings involved in what was intended, I think so, to get -- to ensure that the definition was broad enough to avoid the work-arounds that some entities will do the slicing and dicing their contracts in different ways to avoid getting caught up in what is the important regulation for the comprehensive management providers, but I think the unintended consequence of this is exactly what Mr. Hesiak has articulated.

This is this area in terms of regulation is the doping of the Department and the State Board of Ed. The Authority does not have rule-making Authority in this area to the best of my understanding, and counsel can certainly let me know if they disagree with that. So that is where I think we're stuck, is we don't make the rules on this. I concur with the school that this is an issue that should be addressed if not in reg, and frankly, it should be fixed in statute. And I would welcome the participation of this school and all of our schools in this.

And frankly, part of the reason for making it

very clear and putting this on the agenda versus having this just be something which is delegated to staff, which is allowable under existing regs for these kind of amendments, is because of the patented absurdity of how this can get played out and the need for schools and for the Authority to be aware that this is such a -- this is such broad language that it can catch up anything.

To be fair though, I just want to be very clear about one thing. Part of the reason also for really pushing on this issue related to Founders Legacy is a precedent that we've seen before of what happens when there is no oversight of any kind with relationships with these -- with an affiliated foundation and some of the unfortunate behavior that we've seen. I'm not sure that this is the right way to do this, and in fact, I would note for the schools for the school edification that there is currently draft rules being promulgated by the Department, R131-16I. Section 12 of this talks about this issue of how to deal with related foundations and how those should be treated because of some of the issues we've seen with other schools and trying to clarify what is and isn't okay here.

This language that's in section 12 is an attempt to get at that, but it probably doesn't anticipate all of the real issues. And we want schools

to weigh in on this because there needs to be some public process and some clarity on how these relationships work because of the very huge risk to public funds and the public trust, but I'm not sure this is the right stuff. This is an attempt to fix it, at least in terms of the foundation piece.

And part of the reason for having this conversation here is because we want to make really clear that this is a school that is trying to do the right thing. It hasn't always. It struggles at times to follow the rules, but that's because the rules are hard to figure out. And we wanted to bring them up here in part because we want this to be an opportunity for everyone to be educated on this is a serious policy issue that needs to be dealt with.

I think right now, I would ask the Board to approve this, but I would ask also that you direct staff and ask schools to be very clear with their elected officials that this language is overly broad, and it catches up way too much school stuff, and we need to tighten it up so it gets at what we're trying to do without looping in things that are somewhat absurd like custodial companies and some of the other points that have been made by the school quite eloquently.

CHAIR JOHNSON: You had a statement?

MR. GEIHS: Thank you, Mr. Chair, Members of the Board. Thank you, Dr. Gavin. I'm glad to hear some of those comments you made and appreciate all of the work you and your staff do as well. I would just caution the Board, if at all, not to take action on this today. That would be, I guess, our request because, you know, one of the things that I have seen as an administrative in the Clark County School District for almost two decades, and now supervision of about 30,000 kids and 20 schools and this Turnaround Zone that I run, is the stifling effects bureaucracies can have on schools. And I am not saying that as a criticism of this particular district because that is one of large urban districts all over the nation, stifling effects.

And I have many colleagues that have exited our profession and now work, and probably many of you know, come before your board often in the charter world. And one of the first things they tell me is how liberating their work is, how they can concentrate on the academic needs of the students that they serve. If this goes this way, even though we have Dr. Gavin's full support and cooperation, and from what I hear, I can see a real slippery slope. If this goes this way, this is going to, in my opinion, cause much unneeded oversight bureaucracy, work that stifles the administration, the

educational staff at not only this charter school but all others in this state.

So, for example, if I hire a custodian, if we hire a custodial service, they don't provide the service we want, we want to let them go, then we've got to come back here before we can re-up a custodial contract with someone else. I know that that's a really egregious example, but essentially, that's what we've all said here. So I would really caution us if there is a work-around, to use Mr. Hesiak's words, and I think we have a proposal to work through that so we don't create that kind of environment, even more bureaucratic oversight than some of the public school principals deal with in a traditional system. And I know that's not our intent, but that's where this is going.

CHAIR JOHNSON: I just had a quick question for you. Seems like the two things that we need to have here from our perspective is, number one, there has to be a way for us to mitigate some risk around some of these relationships that would end up happening with a 501 (c)(3), especially ones that are closely connected to the school.

And then the other part comes from, I think, what Dr. Geihs just said is we don't want to have -- we don't want to be overly bureaucratic and have more and

more rules that go with it. Is there a way for us at this point to try to think through a solution that will provide us, you know, a medium or just an area where we can have enough -- we can mitigate that risk because again, we don't want to replace some of the incidents that have happened in our schools but again, we don't -- I know some of these -- the janitorial example, but I doubt that will happen too much. But again, we don't want to have schools coming before us week after week, month after month with small vendor changes because I'm sure they will clog up our agenda. So I don't know if you thought through that at all.

EXECUTIVE DIRECTOR GAVIN: It is my understanding that we don't have much Authority or discretion in this area since we are not a regulatory body in the sense that -- we are a contract -- we are contract administrators. And it is my understanding that we're stuck with the definition that is currently existing in reg and in law. If the Board counsel disagrees with that interpretation and has a suggestion of how to get through this in a better way, I'm all ears.

In an ideal world, I think the way we would try to address this, particularly in reg or in law or the rule -- the entity which has the Authority to create this in reg, which I believe is the state board based on their

broad rule-making Authority related to charter schools, there may be something that the department can do directly and possibly shoot more into one of the -- our numbers that's currently being contemplated. I don't know if that's possible or not. Again, that's their decision, their counsel's decision about what they can do based on what's already written out there.

One thought would be to make it very clear that if, for example, in the case of the Legacy situation, if there is -- if there is no actual markup of any kind, if there is no -- if there is essentially no -- if it's essentially being done at cost, that that can be something that could address some of the concerns. And the other thing would of course be narrowing and making it clearer that things that the school district or other governmental entity would typically contract for like a cleaning service, for example, would be exempted from this requirement. That could be one way of getting at this.

I'm not an attorney, and I'm very cautious about saying what we can and can't do legally here. I think that's really the domain of this dude and that dude. For the record, I'm pointing to Counsel Whitney and to Counsel Ott. But in an ideal world, that's how we would fix this from a policy perspective. I don't

believe we have the Authority to create policy in this area. But again, this is -- that's a job for the lawyers to tell you what we can do.

CHAIR JOHNSON: Question?

VICE-CHAIR MACKEDON: So can't we just say that going forward, if -- until NDE can give us more guidance, clean this up, whatever needs to happen, if it involves -- they get curriculum and, I'm sorry, I disagree. I argue if you get your teachers from them, to me, that counts as an EMO. If you get people or curriculum, we want to hear it at this board, and we want to account it as an EMO. If it's custodial, a payroll service, I mean, there's so many different -- a food service, I'm just like going down the list. Insurance agent. I mean, there's just so many different people that provide us services.

I mean, we contract with a school psychologist. Is that an EMO? It's not our direct employee, you know, so I do think we need to sort of have internally a short list of curriculum people, EMO, everything else not EMO.

MEMBER GUINASSO: Mr. Chairman?

CHAIR JOHNSON: Yes.

MEMBER GUINASSO: Mr. Chairman, on that last comment, maybe this is a question for legal counsel that

do we have Authority to define what an EMO is in the way that's just been suggested? It seems like that would have to be done through a regulatory process and not through a Board decision. That's my first question. And I have a second question in follow-up, but could you agree this or have legal counsel address that question?

CHAIR JOHNSON: Mr. Whitney or Mr. Ott?
Either of them.

DEPUTY ATTORNEY GENERAL OTT: This is Deputy Attorney General Greg Ott, counsel for staff.
Mr. Whitney is your counsel, but I agree with the member on the phone that that could be a problem. The statute is laid out, and I think in an attempt to define it would be probably regulatory in nature. I think that, as Director Gavin said, that probably falls to the State board based on their broad rule-making Authority and your relative narrow rule-making Authority.

This is not something that Mr. Whitney and I have discussed previously, but there might be a procedure about which EMOs you choose to have come before you and which you could delegate to staff, but that's thinking on the fly, which is always dangerous.

MEMBER GUINASSO: This is Jason Guinasso again. In follow-up, if we don't have Authority to create a regulation in that regard, do we have the

Authority to authorize the proposed work-around? And I'll just call it because that's what everybody else has called it. Do we even have Authority to propose that? Because I think by authorizing that work-around, we're creating a precedent which seems to me to be a de facto regulation on these issues.

DEPUTY ATTORNEY GENERAL WHITNEY:

Mr. Chairman, thank you. Robert Whitney. Like I say, the first question, I do agree with Mr. Ott. When you have a statute like that and you actually try to more narrowly define it, that's permissible but it is a, you know, a reg -- it would be a regulation. It would have to go through that process.

Second question, I don't, you know, just again thinking on the fly, I don't think the Board would have the Authority to do that work-around. It seems like that would be the same thing similar to other regulation also. I'd be curious to know what Greg thinks of this. Mr. Ott?

DEPUTY ATTORNEY GENERAL OTT: Just so we're clear, the work-around that you're speaking about, can you just repeat what you're defining it as?

CHAIR JOHNSON: Mr. Guinasso?

MEMBER GUINASSO: Oh, excuse me. The work-around, as I understood it, was the proposal that

was mentioned earlier with regard to this 501 (c)(3), if I was understanding the conversation from earlier on this topic.

DEPUTY ATTORNEY GENERAL OTT: So the work-around of the approval of a 501(c)(3) would act as staffing agency to --

MEMBER GUINASSO: It would be a precedent, I guess, on this issue. I mean, my understanding is we have limited, you know, jurisdiction as it pertains to what we can decide and what we can't decide and that jurisdiction is defined by the statute, and we've got a statute that seems to give us some Authority over this, but, you know, and the question is how can we exercise that Authority. And we can either exercise it narrowly or broadly, but in doing so, it seems that we're potentially making a regulatory decision whereas we shouldn't, and that's not really our role.

EXECUTIVE DIRECTOR GAVIN: Patrick Gavin, executive director, for the record. My view on this is that we're stuck right now with the definition we've got, and schools do have an obligation to request amendments for this stuff. And there is an obligation by the sponsor to review and either approve or disapprove those.

What I do think is permissible based on NAC 386.325, which provides in relation to amendments that

the sponsor, which is to say the Authority, the Board, may authorize its staff to approve amendments, provide some mechanism for delegating Authority so that we don't have to go through this process all the time, which is a huge waste of time, is that what you could direct staff to do -- and I believe this is permissible since it's really an approval mechanism versus an actual interpretation piece. It's how we do the work, is for most of this stuff, delegate it to staff for stuff like this, staffing agencies or whatever else, but where there are potential public policy issues or where it's what we think of as a real EMO that staff should be kicking that up to you guys for review and consideration.

But I think we need to clean this up in statute and in reg because I think everything that schools are raising on this, vendors are raising on this is dead on, that it is extraordinarily broad. And when this was put in 205 in 2013, I don't think it was well drafted.

So I think this is -- I think there's a real opportunity to clean this up and also to deal with this conflict between what's in 205 versus 448 in this dualing statutes and fix this during session. I actually think it's something we could probably clean up in our own BDR. We're working with Senator Hammond on this

related to charter schools, but it's, I think -- and we're stuck with it now, and I think if we don't exercise the role that we're supposed to, it's going to be much harder to go back in and say -- I think demonstrating how absurd this is by doing the work is part of changing the policy. And I hope that the that's something.

MEMBER CONABOY: Chair?

CHAIR JOHNSON: Member Conaboy?

MEMBER CONABOY: I'd just like to support what Director Gavin is saying, but I'm also sitting here thinking that statute also requires -- and I don't have the citation in front of me, but the statute also requires that schools do an annual quite detailed evaluation of their EMOs, and I think that requirement, in combination with the language that talks about implementing educational services and programs of the school, probably infers that we're not talking about the janitorial vendor or the accounting firm.

And, Mr. Gavin, maybe you can take one minute and tell us what the content of those annual EMO evaluations looks like, but I think, you know, the requirement to prove to the sponsor that the EMO is doing these significant -- has significant contracted obligations and is meeting them relative to education and problematic issues is very, very, very different from the

kinds of things we're talking about today, and it may insinuate that we're overreacting. I don't know. I also understand Patrick's dilemma in meeting the letter of the law, but I'm wondering if there isn't some intent that we can depend on to work-around this today.

EXECUTIVE DIRECTOR GAVIN: Thank you, Member Conaboy, for the very thoughtful question. I think there's a real danger in us trying to -- by doing -- by trying to reconcile a bunch of different provisions, and the provision you reference by the way, Madame, Member Conaboy, is to my understanding, is in regulation. I'm actually looking for it in 386. But yes, there is a provision for annual evaluation, and I don't have the citation in front of me, but my recollection is that it sits in reg, not in statute. But again, this creates the situation where we're interpreting, and interpretation starts to look like ad hoc rule-making really darn quickly. And that's a risk. I think this poses a number of issues, one of which is whether the agency's newly found -- new statutory Authority to issue rules in any area is all -- is excessively constrained, or if there needs to be some mechanic for us to deal with these contractual issues outside of the 233(b) process. I don't know. That would again require statutory change.

Kathleen, I just don't think we're in a

position to sit here and start doing interpretive stuff on something like this, especially something that is this fraught with huge consequences if we mess it up.

MEMBER CONABOY: Mr. Gavin, I would agree that we don't want to be doing business off the cuff. I agree wholeheartedly. I just thought perhaps the evaluation, annual leave required -- insinuated a different level of vendor, but I understand your rationale.

MR. HESIAK: This is Mark Hesiak. I want to follow up on Member Conaboy's comment. I think what Member Conaboy has just identified and what I read into the definitions on a broad basis is an ambiguity, and where there is ambiguity, it is the agency's responsibility and Authority to interpret that ambiguity. I am not suggesting that the agency undertake an ad hoc rule-making process. I don't think your deputy attorney general would allow you to do that. I think it would be wise to prohibit that.

What I am saying is where there is an ambiguity -- and every lawyer in the room will agree with me on this -- where there is an ambiguity, agencies have some deference in their interpretation of conflicting statutes and regulations. And that was what I meant to be the theme of my comments, not that anybody

should swim into some political hot water by saying, you know, this is such a poorly worded statute. We're just not going to follow it.

My -- one possible way to address this issue, if Director Gavin is correct and the rule-making Authority or the ultimate interpretation Authority lies with a different entity, is to table this issue for a future meeting and consult with that agency with respect to some of the conflicting things that happen when you characterize all third party vendors as EMOs, and I didn't have a specific example, but what Member Conaboy pointed out was exactly what I was concerned about, is EMOs are likely to be subject to further regulation than they already are or change the regulations. And when people change those regulations, they're going to be thinking about traditional EMOs. They're not going to be thinking about the fact that our definition of EMO may or may not capture just those traditional EMOs.

And so you're going to have charter schools, and this is a perfect example, who every year have to do a breakdown of every contract that they have with a third party because those people have all been deemed to be EMOs. So my suggestion -- and it's fine. We'll come back, is that this issue be put off until the next meeting or until there's a chance to consult with the

people who have final deference to make this interpretation, whoever they may be. I thought it was this board. If I'm wrong, that's on me. I'm not as adept at the regulations as Director Gavin is, but I think there's an opportunity here to take a step back and avoid the consequences both to staff and to all of the people who are eventually going to speak after us, that saying right now, this entity, that entity, are EMOs because once you do that, that's it. So that's a possibility that I think may help us resolve this issue. But, you know, again, like I said in my initial remarks, we're prepared to do whatever the Authority and staff really want us to do. We'll go ahead and do it.

I'm not here to agitate and cause anybody problems or to cast dispersions at anyone. Everyone is trying to do their jobs here. But this is something that perhaps merits a little further consideration and consultation with some other folks who may have some input on this.

MR. MORENO: This is Richard Moreno again. We have the vice-president of charter school management, the other EMO in question, and he has more of a national outlook. The operate in 11 states, and if you would like, he's in the audience, and he would like to come up and present his situation and be available for any

questions at the Board's pleasure.

EXECUTIVE DIRECTOR GAVIN: It's 10:03. We have an extraordinary long agenda. If the Board wishes to table this, I think that that may be the smartest thing to do here because I think we're going to eat into a lot of time.

MEMBER GUINASSO: Mr. Chairman, Board Member Guinasso. I'd like to make a motion to table this agenda item to the next regularly scheduled meeting.

MEMBER CONABOY: Second.

CHAIR JOHNSON: All in favor of tabling this agenda item?

THE BOARD: Aye.

CHAIR JOHNSON: All right. We will have this agenda item tabled and move it to another point in the future.

MEMBER GUINASSO: Again, thank you, Mr. Chairman. Just with regard to tabling it, when it does come up on agenda, could we get an opinion from the legal counsel with regard to the scope of our Authority, you know, to address the issue that's being presented to us?

EXECUTIVE DIRECTOR GAVIN: Yes. Yes, we can. Mr. Chairman, we've got a group of presenters from out of state who have a plane to catch. Can we have them come

next?

CHAIR JOHNSON: That was my intent. Yes. So we will move to Agenda Item No. 4, update and discussion of NACSA agency recommendations.

MS. WESTAPHER: Hello. Thank you for having us here today. My name is Elisa Westapher, E-L-I-S-A. Last name: W-E-S-T-A-P as in Peter -H-E-R, and I am director of authorizer development with NACSA, the National Association of Charter School Authorizers, and I believe I visited with most of you back in January of this year, so thank you for having us out here again, and welcome to the new members of the Authority. We realize you have -- well first of all, do you want to --

MR. STANTON: I'm Larry Stanton. I'm a consultant working with NACSA. I actually helped with the development of your last strategic plan a couple of years ago, and so I met several of you back then, and it's great to be back.

EXECUTIVE DIRECTOR GAVIN: Mr. Stanton, could you repeat your name? Just because I don't think the court reporter or the folks up north would have caught it.

MR. STANTON: Sure. Larry Stanton:
S-T-A-N-T-O-N. Thanks.

MS. WESTAPHER: So we understand that you

have a very packed agenda today, so we did have quite a lengthy presentation planned, and we will do our best to abbreviate so we can make sure that we center the vast majority of our time and our discussion on the report that you all received earlier this week.

So I want to spend a few minutes just introducing our organization, especially to the new members of the Authority board. A little bit about NACSA. Oh, just generally today, we're going to spend a little bit of time talking about NACSA and our authorizing principles, and then we'll spend the majority of our time talking about the organizational structure and capacity report that we provided.

MR. STANTON: And we encourage you to jump in with questions or comments as we go along, understanding we want to keep the time, but let's engage Elisa?

MS. WESTAPHER: Sure. NACSA's mission is to improve student achievement through a responsible charter school oversight in the public interest. Important to note there is our real focus is on improving student achievement through the charter school model. We're nonprofit, nonpartisan, and we're a membership organization. Right now, we have over 100 authorizing members, and those members represent about 60 percent of the charter schools in the country.

The authorizer development team, which I'm a part of, provides a whole host of services to authorizers across the country including authorizer startup work, we help on applications, on developing performance framework, doing staff and board training, and a host of other activities. The key principles of charter school authorizing are to maintain high standards and so that starts with your gatekeeper function in terms of your review of applications, uphold school autonomy, so to make sure schools are allowed to do what they are permitted to do under your state law, give them the freedom to implement their plan, and then lastly, and most importantly, protecting student and public interests. Public funds are going to these schools, so your work should be designed around protecting those public interests.

When we look at authorizers and the key responsibilities, the first is approving only strong, demonstratively viable applications. And I like to think of this really as that gatekeeper function. I think we all realize once you approve a school and you're permitted to open, it's much harder to close that school, so you should set those standards high and make sure you're only allowing schools that meet those standards through the door. Second piece --

CHAIR JOHNSON: When you set legal standards for the Board, is there a way that you would suggest that the Board -- so like for a -- I guess a singular charter school, how to compare them against, you know, demonstrative, viable. They can say what they'd like. How do you prove it's demonstrative, viable without having any track record?

MS. WESTAPHER: Yeah, I think that's a great question, and I think that really goes into their proposed plan and whether it demonstrates the work detail organization and, you know, it shows that they have a plan that is preparing them for success. I think anyone -- and Patrick can speak to this more -- that have reviewed applications, you can review applications and see a plan that, you know, things just aren't matching up. Somehow, the budget isn't really connected to the narrative, and then they say something about say, maybe the management agreement and the narrative and then during the capacity interview, you ask the school board members some - or the potential school board members some potential questions about how that relationship is going to work, and maybe they're a little fuzzy on how things work out.

So I think, you know, whether you're looking at a school with a track record, I mean, that school will

still be new and have new board members, a new principal, et cetera, or it's a school that is, you know, first supplying -- and say it's local members of the community that are coming together to propose a plan, I think you really need to study that plan carefully and be willing to look at it from all of those different perspectives to make sure that they have something in place that prepares them and puts them in a place that they can succeed.

MR. STANTON: And a critical element of doing that right is having people doing the reviews who know what they're doing and have experience with this, and that's been one of the challenges with the Authority in the past. We'll talk more about that.

CHAIR JOHNSON: Thank you.

MS. WESTAPHER: And so moving on, once the school is in place, your next big high-stakes decision is typically at renewal. You may make decisions about whether to intervene in a school, you may make decisions about contract commitments, but that next big real high-stakes decision is renewal. And that's why it's so important -- we'll talk about later -- to establish those expectations from the beginning so that schools understand what they need to do to be renewed, and so when it comes up at times for renewal, it's less about politics, and it's more about these clear standards and

whether they achieved them.

That being said, we realize in theory this sounds easy, right? In practice, especially given all of the changing of accountability systems and state testing, we realize that is actually, you know, can be pretty challenging even when you go in with the best of intentions.

And lastly, part of the charter bargain, this concept of improved outcomes for greater flexibility, is the concept that you're going to be trying to move the quality curve to the right. And in order to do that, you need to allow new schools that look like they can succeed to open and close those that have had a chance to perform and have not been able to do so. I'm going to go through this slide pretty quickly, but basically, NACSA has their opinions and standards for quality authorizing that are centered around the points I discussed in the previous slide, and when we take these principles and standards and we boil them down to some essential practices, and those are in the areas of applications, performance management, and capacity.

And I'm not going to spend time going through that list now, but some of these will come up later in our discussions when we talk about some staffing recommendations. And this is a slide I really like

because I think it really shows the charter life cycle, and it shows really the ideas behind the charter model and what we think of as quality authorizing so you understand, you know, by establishing expectations at the beginning after charter school approval and you're monitoring performance based on those expectations, right, so that helps you stay out of the weeds and know what to look at and what to decide is, you know, not worth your time. Let them have the autonomy, let them do what they need to do in certain areas, and then you have those expectations so you can decide okay, you know, this school is having financial issues on the following conditions, or it's struggling academically. These are schools we need to take a second look at and ask them to, you know, address some issues that we see. And then when they come up for renewal, you have this record of performance against these established expectations. You have a history of when you have decided to intervene, and then that all informs your decision at renewal. So that's what we think of as our performance management cycle.

This gets into a little more detail, but the Authority has taken quite a bit of time to develop performance frameworks. We have performance frameworks -- NACSA advocates establishing performance frameworks in

three areas: academics, financial, and organizational. And the reason behind this, as you are well aware as the charter schools are really small businesses to some degree, and they can be performing, say, great academically, but if they can't pay their bills and they're going to be evicted out of their school space, that's not a viable school. Or if, you know, same with a school can be financially sound, but if they're not doing anything to help the students in their classroom, you know, then they're not doing what they need to be doing. So we'll talk about this in a little more detail because the performance framework comes up a lot in your law, which is great. Most of your authorizing responsibilities are really tied to this concept that you should have a performance framework in academics, financial, and org to know if a school is doing what it needs to be doing in each of these areas, so I just wanted to highlight that before we jumped into the substance.

CHAIR JOHNSON: Across the nation, have you seen, one way or another, any of the performance frameworks having more weight than another?

MS. WESTAPHER: Typically, you know, a lot of authorizers do stress academics, but we caution authorizers from stating anything to say that a certain

one of the buckets should be the primary factor because there is -- and I'm not specifically familiar with it, but there's an Ames case in California which really highlights this issue. I believe California law has something about the academics kind of being the primary criteria you look at in terms of renewal. But you can have that school, right, that's doing fine. Say they're doing pretty well academically. They're not hitting it out of the ballpark, but they're doing great. They're doing fine. But if their school leader is embezzling funds or there's issues of fraud, to me, you don't want to say that academics are the primary and then be in a situation where you have a school that you need to do something about or you need to close and you can't because you have a law or a regulation saying that academics should be the primary. So I would just caution about any one of those buckets, you know, having more weight than the other. All three are really needed for this school to maintain its availability.

All right. Jumping into the fun stuff. So we were asked to prepare a -- do some research analysis. We came here and spent two days talking to staff in both Carson City and in Las Vegas, and we spoke to many of the Authority members over the phone, and our primary purpose with this report was to provide some staffing

recommendations and really looking at the staffing aspect.

NACSA did a formative evaluation of your authorizing practices a little over a year ago when I was part of that evaluation team then, and one of the big takeaways was, you know, you have a good amount of staff, but they aren't doing much authorizing work. They are doing a lot of LEA work, they're doing a lot of school support services, but the authorizing work really wasn't getting the attention it needed. And given that your primary purpose is authorizing, that problem needs to be addressed.

So we were asked to come back and provide some human capital and staffing recommendations, and part of that was also taking a look at your charter school law and taking a look at a variety of the laws that interact with that charter school law and doing a policy analysis to outline your roles and responsibilities. And so the first part of this part was a policy analysis that I'll speak to in more detail, but my reason for speaking to the State's charter school law and some of your challenges is to really lay the foundation for some of our staffing recommendations and for the human capital plan we propose.

There are probably many people here in the

room that have studied this law inside and out, so to the extent I misstate any points of law, I will turn to the attorneys in this room to help guide me in the right direction, but I have spent quite a bit of time with your state law and the State Budget Act and the Administrative Procedures Act over the last few months, so I understand where some of these challenges are coming from. There's many points in time where I scratch my head and was wondering how you guys all managed to make it work here.

So to move on to -- I want to spend a little time talking about the statutory purpose because I think that's really important to remind yourself of your purpose here and connect that to your work. So your purpose is really threefold: to authorize charter schools of high quality --

EXECUTIVE DIRECTOR GAVIN: Elisa, can you hold on one second? Member Guinasso, can you put your phone on mute? I think there's maybe a little bit of background noise, and it's interfering with the different electronic devices.

MEMBER GUINASSO: You got it. No problem.

MS. WESTAPHER: Okay. So the three-prong purpose is really centered around high quality schools, high quality, high standards. So the first prong is to authorize charter schools of high quality, specifically

looking at creating opportunities for at-risk students, to provide oversight to ensure schools maintain high educational and operational standards, and lastly, to serve as a model for best practices, and that's specifically in the authorizing function since you do have a statewide scope and role.

When we look at your authorizing responsibilities and these, you know well, so I'll just do a brief recap so we can get into the challenges sooner rather than later, but your responsibilities and your charter school law cover the life cycle of a charter. They cover applications, preopening, contracts, monitoring oversight, quite a bit in there about performance frameworks, renewal, revocation, and now you have a reconstitution power as well.

I will say what is nice about your charter school law and where you should feel like you have some good coverage and broad Authority is in terms of monitoring an oversight, a lot of state charter school laws do not use the words "performance frameworks" yet, and your charter school law does. And it connects your -- it connects the performance frameworks to the charter school contract itself. It says hey, when you adopt this contract, it has to have a performance framework in it. When it talks about your monitoring, it's connected to

those performance frameworks. When it talks about renewal, it's connected to those and revocation. So you do have a charter school law that is strongly based on accountability, so you have a lot of coverage there to focus on outcomes, and you have a lot of discretion there.

Now getting to some of the specific policy issues I'd like to address today, and these will come up later as Larry talks about the proposed staffing recommendations. Staffing is a policy issue for you all. The LEA designation that you have and what you're required to do under that LEA designation. Your budget has been a big challenge in terms of accessing funds. The Administrative Procedures Act, I think, is still kind of a question mark in terms of how you all will operate within or maybe hopefully, you know, outside of the APA. And lastly, you and since I guess you had seemed like your existing charter school laws gave you pretty broad discretion to adopt policies, but SB 509 really gave you some specific regulatory powers, so you're now entering that phase of what needs to be in regulation and what doesn't need to be in regulation, and these are all thorny issues, so I want to spend a few minutes speaking about them.

EXECUTIVE DIRECTOR GAVIN: Can you just do us

a favor at least once or twice and spell out what LEA is when you're going through this? Because we've got new members who may not be familiar with all of our TLAs, our three-letter acronyms.

MS. WESTAPHER: Sure. After I speak about staffing, I have a slide on LEA, which is local education agency, and I will talk about what that means. So first in terms of staffing, your statute is great on staffing. I would even maybe argue it's a little too specific on staffing, but it says you may employ such persons as it deems necessary. It talks about how your staff has to be qualified to do the daily responsibilities of authorizing, and then SB 509 added, you need to have attorneys. You need to have people that are familiar with doing annual audits and people with experience in assessments and evaluations of a school district and special education experience and policy analysts. So the statute gets real specific about what your staff needs to include. And it says you may hire anybody else that you deem necessary. So your statute is great. You're supposed to be able to hire whoever you need to hire.

Your current context, your staff doesn't include, right now, an authorizing arm. When we interview staff, I would say close to 90 percent of their time is spent on things other than authorizing that we'll

get to in more detail. And right now, your staff does not have some of the positions that are required under SB 509. And from what Patrick told me -- and we'll get into this a little bit later with the budget discussion -- that you did request additional staffing in the latest budget request, sorry about that, that you did request additional staffing in your latest budget request, and that funding for those additional staff positions were denied. And so I'll speak about the budget later, but it is a little confusing to say, okay. Your statute requires you to have these positions.

You have funding and reserves. You're not receiving the full, you know, the 1.5 percent. It seems like you're not receiving that full amount of funding, and yet -- and you're not allowed or your budget office is saying that you can't have these positions. So that's definitely a challenge and something we'll speak to later, but I wanted to kind of acknowledge that you're a -- your law in itself gives you everything that you need for a staff. It's really the implementation and how you're going to go about getting those staff members that seems to be more difficult.

So the LEA designation. An LEA is basically a district that you think of in a common sense. A local education agency. And so, you know, with charter

schools, it's a little more difficult, so they've created this Authority, right, but in a traditional system, if you were a school, you would rely on your district for a lot of functions. So for the Authority, they said, hey. You're going to be the district or the LEA for certain functions. And your statute, though, limits this to certain purposes: for directing state and federal categorical grant programs and for paying special education programming that's -- so special education funds to eligible charter schools.

The statute also puts the burden on the schools for complying with reporting requirements. Whether that's feasible or not, you know, is debatable. But so your statute has kind of says, "Hey, you're the LEA." But we're just going to give you the LEA for these kind of two purposes, a little more narrow than just saying you're the LEA generally. But in the current context, it seems like -- and I don't want to get into relations between different agencies and speak too much about that since we didn't have a chance to speak with people in all of these different agencies, but that the NBE is expecting more of the Authority than what is required by statute so that it's asking the Authority to also monitor assessments, to monitor student information system and administer state grant applications. So that

causes a lot of work for the Authority, and that's where staff is spending a lot of their time.

MEMBER CONABOY: Mr. Chairman?

CHAIR JOHNSON: Yes, Member Conaboy?

MEMBER CONABOY: May I ask a question here? And it may be discussed later on, but I just want to put it out there, if I may. Is somebody else talking? I'm sorry. I'm seeing the slides and not you.

CHAIR JOHNSON: Member Conaboy, go ahead.

MEMBER CONABOY: Okay. I'm understanding what Elisa is saying about these differences in perceived roles. What I didn't see in the report, and maybe she could address is, is if our board and our staff are limited to the responsibilities in the statute, who picks up the other LEA responsibilities for our schools? That's -- I wasn't sure whether the department should be doing that, whether the schools then become partial LEAs through themselves, and I think that that's a sticky question for us to deal with. And if you're going to do that later, I'm fine, but that's very much on my mind.

MS. WESTAPHER: I think that's a great question, and I actually do not have an answer for this. This role of an ICB, so you're an ICB, an independent chartering board. That's what NACSA will classify you. Authorizers across the country take many different shapes

and sizes, so some are LEAs. You know, if you're in a school in Miami and you want to whatever. If you want to become a charter school in Miami, you have to submit an application to Miami-Dade County Public Schools, and they become your authorizer, and other states like New Jersey, the SEA is the authorizer, the State Educational Agency. So in New Jersey, you would apply to the New Jersey Department of Education, and then they would become your authorizer. So when we think about these statewide independent chartering boards, we call you all ICBs, and across the country, there are only two kind of with larger portfolios of schools that also serve as the LEA, and so we spent some time speaking with both of them. That's the Colorado Charter Schools Institute, and the South Carolina Public Charter School District. And so I would say you are in an unusual situation here. This is not something that a lot of authorizers across the country deal with. There's a lot of authorizers that are the LEA for their schools, but a lot of those are districts or state education agencies. They're already equipped to do the work of an LEA. And as a statewide Authority with limited staff, you're new, you're not set up like a traditional district.

So I do think that's a great question. Say, hey, okay. If we didn't do as much of the LEA work, if

we limited the LEA work to what we are supposed to do under statute, how is that other work going to be done? And I think you mentioned two options, you know, the schools and Nevada Department of Education potentially to a degree. I don't know if this is something, Patrick, that you want to comment on, but this is not something that I have a specific answer to.

MR. STANTON: I'd add that I think our impression is that the Authority staff is kind of embracing the role of LEA and going beyond what is statutorily required and doing a lot of hand holding and support that goes beyond special education and getting federal money out to schools, but really helping to manage a lot of activities that probably aren't required.

And when we talk to the other two authorizers in South Carolina and Colorado and ask them how they handle, as they were far more hands off, and they really tried to limit their LEA responsibilities primarily to special education and also to some to monitoring grants. And if schools screwed up the grants, well, that's something that you pick up on the authorizing end. And if they're not doing it well, then it becomes a problem to deal with in terms of their performance.

CHAIR JOHNSON: Director Gavin?

EXECUTIVE DIRECTOR GAVIN: So I would

respectfully disagree with Mr. Stanton's comment that this is something staff has embraced. I would say we resisted with every bit of guerrilla warfare we can muster. Let me be very clear. There are two, really three parties that push this agency to act like an LEA. The first of those is this body. When you ask us to support our schools and do their work for them, that's where we're crossing the line. The second party are our schools, particularly our lowest performing school, but even some of our high performing schools, who it's great to outsource if you can get free labor from someone that you're paying a sponsorship fee to them. There's that piece.

And the third and by far the biggest offender is the rest of the infrastructure of state government and most notably personified by the Department of Education. I think just about every day, my staff is directed to do something or other that is completely outside of the bounds of what we are supposed to do in statute. But if it doesn't happen, we'll get a finding.

The most recent thing is yesterday apparently I'm supposed to find and hire a foster care liaison for every district where we operate. Insanity, just to be real. And frankly, to some degree in our legislature as well that the part-time folks -- and we're the easy point

of contact for any issue that's happening with a school that's related to operational issues or questions that legitimately should be directed to the operators of those schools because they're the ones with expertise about how much square footage their buildings have, whether or not they have a, you know, whether they are complying with some obscure statutory regulatory piece and how they're doing it, that's a question that should be asked of the operators not something that our staff should be researching or providing a blanket set of answers to. But it's really those buckets. I think our staff really pushes back pretty aggressively, but gets its hands slapped consistently, including by this body of us.

MS. WESTAPHER: Okay. We will spend more time on staffing and division of roles and responsibilities a little bit later, but is it okay to move on from that point, or is there any further questions in that area right now? Okay.

Another challenge we heard time and time again, and to be honest, this just took a while for us to get our hands around how your budget works here. So in your statute, you're permitted a sponsorship fee of up to 2 percent. And it's my understanding that the legislature has to approve your budget, and the latest approved two-year budget was more around 1.5 percent,

equated to a 1.5 percent sponsorship fee, and that of that fee, your actual budget in terms of the money you were using and expending equated to more around 1 percent, and that when you -- in most places when we talked to Colorado how it worked there, South Carolina, how it worked there, once the legislature approved their budget, they basically had the flexibility they needed to use that budget accordingly. And if they needed to make modifications to line items within a budget, that would be something they would bring to their board to make amendments. It wouldn't have to go back to a state budget office as it does here.

And we heard from conversations with you all and with Patrick and with staff that when you want to make a change to what you call here a work program, that that involves significant documentation, that if it's above a certain threshold, it goes to an interim finance committee that then has a certain period of time to look at that budget request. And in the law, there's actually, you know, it tells them these are the things you should be thinking about when you look at this budget amendment request. You should be thinking about the intent of, you know, I don't even know what in terms of what is the intent of the statute, but it gives them some guiding direction, but it's pretty broad discretion that

the budget office has given when, you know, you say "Hey, we have this two-year budget." It's kind of hard to always plan exactly in this two-year period, especially for an entity like yours that is growing substantially each year, so having to go back every time you want to make a change really slows things down and really inhibits the ability of staff to do their job, so the budget is one thing I would say throughout the areas we looked at, it came up.

It came up as this tough thing, like we can't get access to our funds or hey, we want to hire external reviewers for an application cycle. Well, if that process is going to take six months to get that approval, you might as well wait until the next cycle, or I don't know. Do you have to start that process a year before your cycle? That just kind of seems silly. So that was kind of an issue that we wanted to bring up generally, and it really does feel like if you're being -- you should have access to the full appropriated budget. I can't solve that here. You know, I can't tell you how to work with the state budget office necessarily to make some changes so that it is a less bureaucratic environment that you're working in to access your funds and to make changes to your budget. I can just say from speaking with other people across the country, it's

really hard here, and it shouldn't be this hard.

MR. STANTON: It's really getting in the way of doing authorizing and creating and sustaining good schools, and so it's not just about budget management. It's really affecting kids.

MEMBER LUNA: This is Member Luna. I have a question. Are there any states that you know of that charge different fees to schools based on who they serve or resources? And if so, how does that work?

MS. WESTAPHER: I am not aware of that, but that's something I can definitely note and check on. I wouldn't be surprised if it happened somewhere, but it's not something I am personally aware of, but someone in my team would be aware of an example there. I thought that was an interesting idea that was proposed. You will have -- so nationally, the National Alliance for Public Charter Schools states that typically, a 3 percent sponsorship fee usually provides funds that are generally adequate to run an authorizing office, but there are many places that may charge a higher fee. And like Colorado Charter School Institute, I believe they charge 3 percent, but then they often will give a rebate at the end of the year to schools so they have the funds, but they try to run things lean and mean, and then they will distribute any excess at the end of the year. But I

think that's a really interesting policy question. So I can definitely follow up and report back to Patrick on that.

EXECUTIVE DIRECTOR GAVIN: I am not aware of any other state that does that kind of differential fee based on those kinds of strategic objectives. There is some theoretical provision in statute which again, gets trumped by the Budget Act relating to being able to do strategic discounting for high achieving schools or schools that are basically -- where there's less of an oversight burden of less responsibility, but the statute also says you can only do that once you're doing everything else you're supposed to do and if your job hasn't increased. It seems like every day, someone adds another thing to my job description, so that hasn't happened yet.

MS. WESTAPHER: So the last two areas I'd like to go on briefly, one is the Administrative Procedures Act, which we spent a lot of time talking about and talking about, you know, is this an act that you have to follow? And if so, what are the -- what's the impact there?

So the Administrative Procedures Act is a statute, and a lot of states have these types of statutes to establish minimum procedural requirements for the

regulation, making and adjudication procedure of all agencies. And so -- and I'm not going to pretend to be an expert on Nevada law, so I will defer to the two attorneys here, but my reading it sounds like you fall within the definition of the APA because you're a board of the executive department, and you are expressly authorized to make regulations.

So if you are indeed covered in the APA, there are some -- there are quite a few implications with this act. It basically states that you have to develop regulations in a lot of areas. And I will not read from the act itself, but it gives you a pretty broad Authority to make regulations in a lot of different areas, and then it also has a definition of a contested case. Maybe I should read that.

The APA defines a contested case as a proceeding including but not restricted to ratemaking and licensing in which the legal rights, duties or privileges of a party are required by law to be determined by an agency after an opportunity for a hearing or in which an administrative penalty may be waived. So it's possible, and I'm not going to say here -- and again, we'll defer to people that are barred in the State of Nevada to practice law, which I am not, but that if you do fall into this category, a lot of your proceedings in terms of

renewal and revocations could fall under the definition of a contested case.

And if that's the case, and it seems like you are trending to more of quasi-judicial process in some of your -- in your renewal and your revocations, but there are pretty specific things that the APA would require you to do. It would require, you know, that both parties are able to present evidence, that both parties allowed to call witnesses, that they can provide exhibits, that the rules of evidence apply. So there are pretty -- some pretty high standards here.

So I will say that there probably needs to be some clarity in whether the APA applies to you all and the extent of its application. I will say that there are a number of agencies that receive partial or full exemption, and a lot of them sound a lot like you. There are a lot of education-related agencies that receive exemptions, there are agencies which I highlighted in the report that substantively are very different than you but that do serve similar purposes in the permitting parties to have certain rights or to take away those rights. So an exemption is something I would highly suggest you all explore with legal counsel. You know, your role as a regulatory body is developing and being part of the Administrative Procedures Act would definitely open up a

host of opportunities for litigation. I know that's already something that you are dealing with as a body, but it could really -- it could really create some messes for you all here. So I would highly suggest that you all take a look in what the process is to pursue an exemption.

I will also note that if the APA applies to you and you have to go through, you know, all of your proceedings have to be more in the form of a contested case, that you will be the only authorizer in the state because you are a, you know, a state agency that will be subject to the APA. So I'm just saying that doesn't necessarily seem fair for all of the other authorizers in the state to have a different bar and for you all to have -- be required to have a much more judicial-like feel in all of your proceedings.

MR. STANTON: The other point I might add is that the rules required under the APA are essentially not consistent with what we see in good authorizing. It's overkill, I think, in our mind. And you can do very good authorizing without granting your schools and other organizations that might be before you the sorts of protections that are required under the APA. So we think you can actually do better authorizing under your statute without the APA procedures.

MS. WESTAPHER: And what I think you are seeing a little bit here, right, the whole concept of charter schools is to provide some flexibility for schools, right, to take them out of what has developed into a very bureaucratic system. And yet, the Authority is kind of being forced to develop into more of a bureaucratic type entity.

Even in looking at some of the draft regulations that were proposed, from my experience as an attorney, they're going down the overkill route. You have a charter school law that gives you pretty broad Authority. Your regulations should be filling in the holes, describing certain processes that need to be described, but that shouldn't be spelling out every single detail of every single thing you may or may not want to do. So that's just something I would think about when you're thinking of your strategic planning is I am seeing a trend in your laws, in your regulation, of becoming too bureaucratic in nature and something that should be -- you should spend some time thinking about that and, you know, being part of that APA would really hamstring you in that area and force you to be a much more bureaucratic entity.

MEMBER CONABOY: Mr. Chair?

CHAIR JOHNSON: Yes, Member Conaboy.

MEMBER CONABOY: I'd just like to comment here. This conversation about being burdened by the APA and possibly seeking an exemption, which I think is a good idea, probably needs to be balanced with -- really truly balanced with the other recommendations about enhancing our authorizing capacity via the hiring of additional staff because I think the only way we can escape the concept of contested cases is if all along, we're working with our schools on their performance and a feedback loop that gets us all to the same point at renewal. There shouldn't be any surprises at the time of renewal. And so I think that these two recommendations really dovetail well with one another, and I appreciate that insight.

CHAIR JOHNSON: Director Gavin?

EXECUTIVE DIRECTOR GAVIN: And I would note that it's also critical because absent an authorizing staff, there is no evidence to present. I'm your prosecutor and your only witness, and there's -- and we have extraordinarily limited documentation and capacity to really create documentation which is supportable under the rules of evidence, which is why we're stuck with very black-and-white, "You broke the law. You're going to jail." There's no -- or it's something -- or where we're dealing with these very restrictive if you're not 60

percent, we're going to close you. If you're not at this, you're going to be closed, and we're going down that road because it's the only things that are super clear-cut and where somebody else has already basically made the determination that you've broken the rules.

And that means that this agency had very little ability to intervene in anything except the most egregious cases, and only when it gets to the point where the train has completely gone off the rails, hence the interventions that have happened so late with Quest, with Silver State, and with frankly, other schools that have been able to -- that we have serious concerns about but that are able to -- but are able to outgun us because they can bring an army of folks to the table, and that's true for even very small schools.

If Melissa wants to disagree with something that we're recommending related to her school, or if Ben Salkowe from Equipo wants to disagree with something, they have a heck of a lot more resources and tools at their disposal than we do. And there's an argument to be made that some of our staffing challenges are in fact intentional and designed to perpetuate the existence of low-performing schools and that this is actually part of a larger legislative strategy by operators to ensure that they are allowed to operate in perpetuity.

MS. WESTAPHER: I will just note that from participating in the evaluation as well is, you know, one of our takeaways from the evaluation you will see if you refer back to that report, is that you tend to have a lot of good things in place. You've established performance frameworks, you have a contract, you have preopening requirements, you have a lot of the, you know, what we call essential practices, things that you should have in place.

The problem is is there's not really people to do anything with the things you have in place. And so the schools that we raised in the evaluation report, some of the schools that we spoke about during our interviews with you all and with staff to understand how it could get to that point and how some of your decisions came to be, a lot of that is tied to the fact that it's hard to make those hard decisions without strong authorizing work.

And so I think you all have experienced, regardless of your perspective and opinions on some of those decisions, I think you've experienced the impact of not really having the authorizing personnel and work in place. So when you have to make those hard decisions, you've found yourself in a place that you feel really uncomfortable. And I think that's a goal for you to all

feel in a better place because of the work you've done when you have to make those decisions.

And I'll just note real quickly on the regulatory powers, you do have some now, and you have them in a lot of key areas: applications, renewals, amendments, oversight. So your law now allows you to adopt regulations in quite a few areas. Patrick and I may disagree on this point. I think you already have a lot of good stuff in your law. I don't always think you need more detail than is already there in terms of regulation, but I will say that, you know, if you're going to draft regulations, you've kind of got to figure out the Administrative Procedures Act part first because your regulations are going to need to look a little bit different if you are going to be subject and working under that act versus if you are not. So I think that's kind of a threshold question there.

And I will say in developing regulations, work with legal counsel. Understand -- try to make sure you're not being duplicative, that you're not limiting your discretion and Authority at times. It's great to provide additional detail. It's not great to necessarily provide so much detail that you hamstring yourself in your decisions. So that's all I'll kind of say on the regulatory, but I think that's a new area that you all

are exploring. But I definitely see that tension between the APA and then, you know, your own ability to know the expanded regulatory power that was provided to you under SB 509.

And I spoke for longer than I planned to, and now I will turn it over to Larry, but I wanted to get into some of the weeds in some of those issues because I do think a lot of them are interconnected, and I think it's important to have an understanding of kind of where you're running up against things in terms of trying to get things done.

MEMBER GUINASSO: Mr. Chairman? Jason Guinasso. Can I ask a question?

CHAIR JOHNSON: You may.

MEMBER GUINASSO: With regard to the APA in contested cases, isn't one of the reasons why we would be covered under that act to ensure that anyone that we make an adverse decision toward has due process with respect to that decision up until and including judicial review of our decisions?

EXECUTIVE DIRECTOR GAVIN: Patrick Gavin, for the record, Member Guinasso. And for context for those of us who are not frequent observers of our meetings, Member Guinasso and Member Corbett and Member Snow are all new to the Authority. This is their first meeting,

so they're getting a little bit of a baptism by fire.

So that is the general purpose for most administrative procedures acts and contested case processes in most states. Charter school acts already have within them an explicit due process that is actually -- it is actually required in order to get federal funding that you have a particular set of processes and procedures, and it is generally best practice. And in most states, it is specifically carved out that these decisions are not and cannot be subject to judicial review because it is such an important area of public policy and authorizer discretion is so important and that these are essentially contractual relationships with a privatizing vendor so they are -- and that there is also effectively also a subsidiary relationship with a school to its authorizer so that these are in most cases and in most states which have very strong charter school movements and very high quality schools, these are treated as internal matters because of that subsidiary and contractual relationship.

MEMBER GUINASSO: Subject to the APA in that regard, would there be a conflict? Because I think 233(b) provides for a judicial review of administrative agency decisions in contested cases, but you're saying we already have a due process -- a due process piece that is

independent of the APA. So I guess there's a conflict between one or the other, which one controls?

EXECUTIVE DIRECTOR GAVIN: Jason, that is, I'm sorry, Member Guinasso, that is precisely the challenge is that we have a situation where it appears that the general is trumping the particular. And effectively, it creates dual due process requirements which have to happen either concurrently or in succession and creates the morass that this board has found itself in or in dealing with high stakes decisions historically.

MEMBER GUINASSO: I'm new to this board as you know, and so just trying to figure out the lay of the land on this issue is helpful. So thanks for answering this question.

MR. STANTON: The scheme that most charter authorizing systems are set up on is intended, I think, to balance the interest of kids in having a quality school that is ready to open and/or has to close in order to serve kids well against the due process interests of the adults that are opening and managing those schools.

And I think generally, states try to balance that so that the interest of kids are highlighted. That's the danger of --

MEMBER GUINASSO: One other question though because of my understanding of case law on this would say

that there has to be a separation of powers, so that internal process or the internal due process that Mr. Gavin explained to me might run afoul of that concept of separation of powers, and that's why the APA has the judicial review mechanisms in there, is so that the judiciary can review the actions of the executive, and in this case, relative to the decisions that are made in contested cases.

MR. STANTON: So I'm going to move to some specific recommendations around staffing that are based on both our review last year and the interviews we've done, conversations with a number of other statewide authorizers, in I think four areas. The first is that you really have to build a unit that is committed to authorizing and doing the work of authorizing and with the capacity to review applications in a thorough way, do contracts or all of your schools as soon as you get the legal right to require them, do really ongoing tough monitoring, and run a serious renewal process. Because we think without the capacity to do that, it will continue to be in the place that you've been, unable to make what you feel are solid decisions at the front end and the back end, and that's doing a disservice to everybody.

We also think that it's probably worth giving

some additional thought to how you support schools, the nature, the level of school support. I characterized it as embracing this work. That might have been an overstatement, but there's an awful lot of time being spent minimizing risk to various organizations, collecting all sorts of data from schools on things that when we described this to other statewide authorizers, they say, "Really?" So I realized that a lot of that is coming -- is pressure from the state department of education. It might be pushback from the schools. We don't want to do it. I guess we're suggesting that there be a conversation with the state department, with the Authority, and with some of your schools just about how we can do this more effectively. Because I think it's our impression is that you're probably spending too much time and attention on things that might be better left, better done by either the state or the schools themselves.

And I don't think we can specifically say what the answer is, but there's a tradeoff between your authorizing work and the support work. The authorizing work has been getting overwhelmed by it, and we think that we don't want to have that continue. There seems to be -- there's a need for some additional capacity in Las Vegas. In talking to several of the board members,

that's fairly obvious so that as you grow the staff, it probably makes sense to locate some of those folks in Las Vegas. Also what we heard was a need to connect the two offices better, use technology better, we realized that you had problems just getting travel authorized, again, a budget issue between the offices so that you can really run a coherent organization that's located in two places.

And then we also think it's very important that there be kind of an ongoing coherent approach to developing people and their skills around authorizing. This is particularly important here where all but Patrick have not had experience in this world and a lot of other authorizing offices, people have come from other authorizers, they've had experience running charter schools. You don't have a staff like that. We are suggesting that you get some leaders in your organization who have had some deep experience with the work, but until you do, we think you need to be very deliberate about training and exposing people to good authorizing work.

So we'll now take a look at the organization. Your current org chart, as we've made, I think, pretty clear, doesn't have anybody doing authorizing. You've got people working at special education, federal programs, assessment, data systems and finance, but

there's nobody dedicated to authorizing. Patrick, as he said, it's kind of up to him, and that's not adequate. A portion of time, an Accountant II spends time on this, but that's about it. And that's not adequate.

We are proposing an organization that is based on four assumptions. The first is that you need to increase the resources for authorizing. We're also assuming that the portfolio is going to continue to grow. The projections that you've showed us show you from moving from about 25,000 students to about 50,000 in the next five years. That's a lot of growth. It's going to require more quality authorizing. It's also going to require more support, however you define it, and so we're anticipating some growth. We're also expecting you're not going to get out of the elevator. We're going to continue to have to do some of the work.

MEMBER CONABOY: Mr. Chairman, may I interrupt? Mr. Stanton's voice kind of goes in and out of volume. Maybe he can speak a little bit directly in the microphone.

MR. STANTON: Okay. I'll get closer. I apologize. So we're going to have to continue to do the LEA work, and so we're allocating some people to do that. We're also assuming that you're not going to hire all of these folks that we're recommending at once, but that it

be phased in over three years. We're not exactly sure what the phasing is. It's obviously connected to access to your budget and the rest of that, but the goal would be to make sure it tracks the growth, and it gets you to a point where you can start doing good authorizing soon.

We're suggesting four units: an executive office, an authorizing unit, a school support unit, and an administrative and financial services unit. And I'll quickly run through the elements of each of those. So the executive office might sound a little grand, but you really need somebody to run the place and run the organization and communicate. And also, the law calls for legal counsel. We think the legal counsel should go into that executive unit. It's an important role, and it's important that it be in a position to inform -- work with the Board, work with the executive director on making sure that your legal position is clear, and we've talked to Greg about this. We thought it made sense to have somebody internal to do that work.

The public liaison, as you grow, you have increasing needs to communicate with your stakeholders, and that seemed like an important role. When we look at other statewide authorizers and similar sizes, they've got that role, and they find it to be critical.

So move on to the authorizing unit. This is

the big change. We're proposing that ultimately, there be seven people doing authorizing work, essentially all of the time. You're going from zero to seven, but you're also going from not having really not very much information and not being comfortable making decisions to being in a position five years from now with twice as many schools and being in a position where you really have rock solid data and recommendations to make. So we are proposing a director of charter school authorizing. We'll talk a little bit about that role because we think that's critical, and then we're breaking it into the three parts of the framework: academic, organizational and finance and suggesting that ultimately, you want to have two people in each of those areas, a supervisor and an analyst, that respective responsibilities between those two is really probably going to depend to some extent on the people, but the job descriptions we've given you in the full report, it describes the functions that need to be addressed in those jobs.

Moving on to school support, these are all existing staff. We're just kind of putting it together, suggesting that there be a director of school support, probably the deputy director right now, and then focusing on special education and assessment as two areas that are critical. To the extent that other things need to be

added to that, our recommendation is that you try and get it done with these people, not grow it beyond this. But we think this is -- I think behind this is the assumption that you also do the step back, have a conversation with the state, have a conversation with the schools about what is appropriate support and what isn't.

The next unit is administrative and financial services, and this is essentially work that you're already doing. I think we might be characterizing a little differently. The supervisor of grants management, I think, has previously been characterized as more a support role to schools in using their grants. I think we'd like to suggest that this be more a monitoring compliance focus rather than a support focus and try and shift the responsibility for spending federal money to the schools and try and reduce the amount of time that you're spending here.

The Infinite Campus system is going to require increasing amounts of attention, and we think that over time, you're going to need a couple of people working on that, so we've got a supervisor as well as a data analyst in those roles.

CHAIR JOHNSON: Mr. Stanton, I have a question for you.

MR. STANTON: Sure.

CHAIR JOHNSON: A couple, actually. Number one, in looking at this, this would be an ideal model. Is there a way for you to give us a -- maybe not today, but in future reports of some sort just a contingency plan based on a budget that might be smaller, or just that if we decided we're going in a different direction, that's number one.

And second part of that is did we or did you take into account our strategic plan in terms of creating this new structure? Was that like something you thought about or did you -- are we just looking at this outside of what we're already doing and saying, you know what, in general great authorizers have this model and we think that this model would fit well here?

MR. STANTON: Yeah. I don't think we've seen your new strategic plan. I'm familiar with your old strategic plan, but I think this is really based upon kind of best practice generally. And as I mentioned, we talked to a number of authorizers around the country who are at the state level, and this kind of matches the way they think about their work, particularly the two that have the LEA responsibility as well as this.

EXECUTIVE DIRECTOR GAVIN: Member Johnson, I would just note that based on the draft strategic plan that the Board has created, there is a strong alignment

with all but potentially one element, and that was the very contentious conversation around the school support function and advocacy functions. I know we've, I think, quashed a lot of the advocacy stuff, but there is still an expectation of school support and the LEA role in the current draft which is inconsistent with this best practice.

MR. STANTON: And in terms of kind of a compromise version, I think a couple of slides I'm going to suggest kind of a phase-in, and I think that probably the most critical of the things that you absolutely have to do are kind of Phase 1 and 2 probably where we're suggesting that the director of charter school authorizing the supervisor of the school academic quality and the legal counsel would be kind of Phase 1.

Phase 2, we've got the public liaison. And then so Phase 2 would be the public liaison supervisor of data and academic quality analyst. But honestly, I think you're going to need all of this, particularly with the growth that you're showing. I don't know that you're in a position to say, you know, "Oh, let's cut it in half and just do half of this" because one of the other things we did was in our conversations with the other authorizers, we pushed them on. "So how do you think about the size of your staff?"

And most of them think about it, to the extent that they do, in order to authorize them you need x number of staff or one staff for a certain number of schools. And what we found is that the range there is somewhere between 1 to 3 and 1 to 8, and you're at about 1 to 15 depending on -- or it could be 1 to 22, depending on how you think about your staff. You're way, way, way below those numbers. What we're suggesting is that you get up in the neighborhood of 1 to 6, 1 to 7, which in the other states that we talked about is still kind of at the low end, but we think it would be -- could be adequate.

The problem with making these kinds of comparisons is it's not to say that people out of your full staff are authorized doing authorizing work and other work. It's just not that clear. When we talk to other leaders of authorizing offices, they have a hard time saying, "Well, of my 13 staff, 7 are doing authorizing, and 6 are doing support" because jobs generally blend. But we think that's what we're suggesting though, is that you're in the range once you do everything we're suggesting. Now you're way behind in terms of the level of staffing.

VICE-CHAIR MACKEDON: So this is Melissa Mackedon, for the record. I kind of wanted to just spend

a little bit of time on what you were talking about. The first one just real basic question because I agree. I think there's been confusion on our board. There's definitely confusion amongst our schools about the level of support. So my first question is just really is it common practice for an authorizing staff to get down in the weeds to the level that in some cases we were helping schools actually write their objectives and so yes or no, is that like common practice or best practice?

MS. WESTAPHER: That's not common practice. I would say there are a couple of states where the words technical assistance, in particular Ohio, although you don't want to mirror Ohio for a variety of reasons, but technical assistance is written into their law there, so when you work with authorizers across the state, they will do more school support, and they're really connected to those words in their law.

And I will say we've had some really heated and good discussions about what that support should look like and what role you should play. There are some authorizers that are so hands off, I would say that is also a disservice to schools, too. We talked to an authorizer recently where there's been a change in leadership and she says, "Hey." I mean, we were so hands off, it was like we won't even answer questions. And so

when she has taken charge, she wants to revisit that approach and figure out, you know, how they can be a resource for schools without necessarily holding their hands. And I think right, there's areas that schools are going to need help in.

Special education is one. It's complicated. So that's a perfect example of where, you know, may you offer -- say you have -- you decide a handful of topics that you know schools struggle with and you design a plan throughout the year of maybe it's seminars that school leaders can attend or some sort of guidance around navigating some tough issues. I think there's a difference when you approach school support from that perspective in terms of what do schools really struggle with and what can we do to provide some guidance in some key areas versus kind of getting in the weeds with them and, you know, potentially helping with them, you know, and basically doing some of their work. I think those are two different things.

VICE-CHAIR MACKEDON: I know you're trying to be very politically correct and not offend any staff members or board members of school, but can you give us some specific examples from just talking to staff? It's no one's fault. We realize how this kind of got to be where it is, but I think this board and our schools need

to understand what some of the shenanigans are that they've been getting this hand holding on versus, you know, that really crossed the line. And so I know I'm putting you on the spot, but if you could just highlight maybe one or two examples of extreme hand holding that you think are going on so people can wrap their head around what we're talking about here.

MR. STANTON: I lot of it's in the monitoring. I mean, we heard about collecting time sheets and after school programs on a weekly basis and helping schools to prepare applications, write applications for all sorts of things that didn't seem essential. Kind of if the school couldn't do it, then that's their problem.

VICE-CHAIR MACKEDON: Title II application.

MR. STANTON: Yeah, a variety of things like that. Just a lot of pretty intense assistance. I'm not --

MS. WESTAPHER: Most of them were in monitoring grant applications. A little bit when you -- there was a particular instance, and I don't remember if it was around SPED or not, but a school was not complying with some certain thing, and a staff member literally, like, took it upon herself to basically, like, try to solve the problem. Like she kept reaching out to them

to, "You still haven't given this to me yet. We still don't have this information." You know, trying to basically, you know, make it as easy as she could for them to comply with something. I can't remember exactly what requirement. I want to say it was something in the SPED department, and we just kind of looked. We're just like, "Why is that your problem, you know?" That's the school's responsibility. And yes, maybe you need to flag them to "Hey, this is an issue, and this is an issue you need to resolve," but it's not really your job to be the babysitter to make sure that that issue is resolved. And so I think that's kind of the nature of some of our discussion where things that came up where they felt it was really their responsibility versus alerting a school to, "Hey, this is an issue." If you have a question about what might satisfy a requirement, sure. I'm happy to, you know, help you understand the requirement or let you know what outcome needs to take place in order for this to be resolved, but it really is becoming more of like staff's problems.

MR. STANTON: Assessment is another area, and I think this is where the Authority is kind of caught in the middle because I think the State doesn't want to have to worry about it. The schools might not have the capacity to get their class rosters and be really clear

about who is taking what test when, but it didn't seem feasible for the Authority to try and figure all of this out with one person which takes time -- yeah, a lot of students. So I just -- the work that's being done is good work. And it's -- but is this the right place to be doing it?

EXECUTIVE DIRECTOR GAVIN: It also creates issues in terms of this real -- this blurring of lines between the support role and the accountability role.

Here is a case in point from Monday the 18th of July. Extensive correspondence between the Department of Education, Joan Jurgensen, our assessment person, and one particular school which had failed to meet the deadline to validate the students who had participated with -- basically date of validation task related to the ACT test for high school students. The school leader basically said, "Well, I delegated it to someone." It basically comes from the Department saying, "You're holding up the entire state, and we can't close this file and actually publish a result until this one school does this."

The school says, "The person who I delegated this to is on vacation and I didn't know about this, and I'm not trained on it. And I don't have access to the system because I don't have to -- it's not my job." And

this was the executive director of the school. And our staff were directed by the Department to go in and validate the data for that school. So consider what that means now.

First of all, we could make a mistake, and then the school will say it wasn't our fault. It's the Authority who screwed this up. The Department is going to say, and the State is going to say, "We can't publish our ACT scores for the entire state because this one school and this incompetent agency can't get its school to do what it's supposed to do." We are very much caught in the middle on things which are -- which deeply compromise the integrity of our work, and it is profoundly troubling. And so that's one example from a week and a half ago.

MR. STANTON: You can't solve this alone, but it's worth solving. It's worth working on. So quickly, let's move to the transition. So I think we went through the transition plan, essentially phased this in. And then recruitment, we think is important, particularly for the director of the charter school authorizing the supervisor of school academic quality. I think it's really important that you get --

MEMBER CONABOY: Mr. Stanton, could you please talk into your microphone. Sorry, but it's very

difficult for the reporter to track this conversation.
Thank you.

MR. STANTON: I apologize. So the director of charter school authorizing and the supervisor of school academic quality are positions that are going to be critical to your future success, and we think you need just topnotch people who have some experience.

One of the problems that you've got is that the State requires that all of your positions be classified, so the job descriptions have nothing to do with the actual skills that you're looking for. That's a problem. You're also going to need competitive salaries for these jobs, and it's not clear to us that the State scheme is going to work for that. We also think you need to conduct a national search. There's some precedent for the State achievement district director used -- they used an outside search firm that, from what we understand, yielded success, but it required some outside money, and you know some flexibility there. And you may also consider some flexibility in location.

Personally, I think it would be great to live in Carson City, but maybe people want to live in Vegas, so some flexibility there. That's critical. We think on the other jobs, probably authorizing experience is less important. Local folks that might not have had -- that

the authorizing experience would be great, but they're going to need the right mindset and then a willingness to learn, and you're going to also have to be in a position to provide it, which is the next and I think final slide is that --

EXECUTIVE DIRECTOR GAVIN: Larry, just one second. One administrative task because we do a lot of that here, as we noted. So the Board can get lunch and immediately go downstairs, can you please make a quick selection while Larry is talking and then pass those down to us so that Nya can go down and make that order so we're not delaying the line.

MR. STANTON: Okay. So there is a set of core knowledge that NACSA has put together for authorizers, and we think that your folks need to become familiar with it. So there needs to be a real commitment to training and then orientation for new folks. NACSA can help with both of those. So can the National Alliance for Charter Schools.

NACSA has a leadership program, and so having people apply for that, and then we also think that Patrick, because he's kind of the only statewide authorizer in Nevada, could use some coaching from somebody who has done this job in another state that can provide some useful help for him as well. So we got more

details on that in our report, but I think I'll stop there.

MS. WESTAPHER: And one last note. I spoke with Patrick, and NACSA will be planning to come back at a time and date that makes the most sense for the Authority to provide some staff training as part of this project, so whether it's with existing staff or new staff or if new board members want to participate, we've talked about coming back to do that training.

VICE-CHAIR MACKEDON: Could I ask a question along those lines? This is Melissa Mackedon. Obviously, there are some really complex policy issues and things that we have to work out. What is NACSA's availability to help us, you know, both prior to and during this legislative session to sort of educate our state leaders on, you know, just how complex and serious these issues are and the ramifications of different decisions should they be made or not made?

MS. WESTAPHER: So we have an entire policy team, although our teams at NACSA aren't particularly big, but we do have a policy team, and we frequently work with authorizers and other stakeholders as they are looking to revise their charter school laws or particular issues that are of concern to them, so that team comes with a knowledge of working across states. I'm not part

of the policy team. I worked on this policy analysis and I am an attorney in Illinois but, you know, these are really complex issues, and that's why I wanted to take some time to really frame. It's not just your law. And that's the thing. If you read your law, you're kind of like, "Oh, you guys are in pretty good shape." It's more how your law interacts with -- because you're an SEA, you're an LEA, and you're also an authorizer. That makes for a really complicated legal framework and structure that you work within, and so I think taking some time to understand how your charter school law interacts with some of the other laws in the state is really important.

So I will say I think these are really challenging issues, and they will take cooperation from multiple agencies, and so I think that's, you know, first is identification of the problems, right. And then once you've identified the problems, it's getting the right people in the room to start some conversations about ideas for how to address them. But I think starting with a really concrete and narrow list of where your roadblocks are is a good place to start versus some of these, you know, these conversations can go from A to Z, you know, all in 30 minutes. And you're like, "Wait. Where do we start?" So I do hope this report helps you identify where some of those roadblocks are, and then we

are definitely available to assist in terms of working with various stakeholders in your state on some solutions here.

CHAIR JOHNSON: This is Chair Johnson. What is the availability to act as a subject matter expert during the course of the legislative session? I think that also having a third-party evaluator oftentimes is much more helpful than any of the seven of us.

MS. WESTAPHER: Yes. Members of NACSA staff have participated and provided testimony at a variety of state and federal level, you know, hearings. I'm happy to dive into any of these issues in more detail, and what is nice is we really do have that experience across the country in terms of working with various states on revisions to their charter school.

CHAIR JOHNSON: Thank you. Are there any other further questions that we have of Ms. Westapher? Mr. Stanton?

MS. WESTAPHER: Thank you so much for your time. And, Patrick, if you have any other additional questions, we're happy to address them. I know it's a lot to digest, and so I hope to continue these conversations.

CHAIR JOHNSON: Thank you. Director Gavin, are you okay if we start with any of our charter

applications now, or would you like to do that after lunch?

VICE-CHAIR MACKEDON: Do we need an official motion to approve those staffing exchanges?

EXECUTIVE DIRECTOR GAVIN: Mr. Chairman, I would note that there is a staff recommendation to at least approve the recommendation, or if you don't agree with them or you think we should do something else, now is the time. And let me be clear about why we need this. As I noted in other briefing items, we have a very narrow window to essentially appeal the denial of our budget enhancement request, and I am not in a position to handicap whether the governor will even consider it, given the very serious fiscal reality of where the State is as a result of the roll-ups across the -- statewide and the concerns about setting precedent for giving one agency support when others are being told to cut their budgets.

But that said, it is really important that it's clear that the Authority is asking for this and not just this whiny pipsqueak in Carson City. So if you guys -- there was a couple of other agenda items related to this including the one related to fees because that's how we're do going to -- if we can get this to that.

CHAIR JOHNSON: Do we have a motion?

VICE-CHAIR MACKEDON: This is Member Mackedon. So I would move to approve NACSA's recommendation regarding staffing changes including those specifically required by statute and direct staff to appeal to the governor's office for consideration of these investments in the agency budget question.

MEMBER CONABOY: Second.

CHAIR JOHNSON: All in favor?

THE BOARD: Aye.

EXECUTIVE DIRECTOR GAVIN: Following that, Mr. Chairman, could we move to Agenda Item 16.

CHAIR JOHNSON: Yes, we can. Agenda Item 16, authorization for the Agency to budget and charge up to 2 percent to support NACSA business findings and ongoing discussions regarding Agency budget request.

EXECUTIVE DIRECTOR GAVIN: Mr. Chairman, this is essentially how we get the money to be able to actually implement this stuff. I would note that I am very cognizant of Mr. Salkowe's concerns about the impact on schools, number one. This would not kick in until the next biennium since we have a legislatively approved budget and a fee cap that the governor's office to the legislature believed was set by this board. That is their perception. It's helpful to at least say we're willing to go up to 2 percent, but I think it's really

clear we don't want to build some war chest of cash to the degree -- and most of the excess moneys that we charge right now in our reserve are essential to our cash flow. There have been multiple points this year what we have dipped into the negative and been unable to pay bills because of the timing of payments, and the only thing we've been able to pay for is staff. That's one of the gating factors also related to why our travel requests and other things don't happen, is that because of our enormous chunk of federal dollars and all of the strings that are attached to that, we essentially use our general fund revenue, our prorated fee revenue to prompt those reimbursements to school and then have to go through the Byzantine process of getting it reimbursed through the department and just a huge --

MEMBER CONABOY: Mr. Gavin, you need to slow down just a little bit, please. Sorry. With the reporter here, we just need to be cognizant, and I think she is getting a little weary since we've been going for quite a while.

EXECUTIVE DIRECTOR GAVIN: Thank you, Member Conaboy. I will endeavor to speak more slowly. There's just a lot, so I'm talking too much. I would just ask you to approve this, recognizing we're not going to try to hose our schools.

MEMBER LUNA: This is Member Luna.

CHAIR JOHNSON: Member Conaboy?

MEMBER CONABOY: I'll wait.

MEMBER LUNA: I would make a motion that we go ahead and authorize the agency to budget and charge up to 2 percent to support NACSA's business findings.

CHAIR JOHNSON: Do we have a second?

MEMBER SNOW: I'll second.

CHAIR JOHNSON: Member Conaboy, was there a discussion you wanted to have about this?

MEMBER CONABOY: Just two things. I wanted to clarify, and I believe that Mr. Gavin just alluded to this, but this would -- if this passes and we go forward, this would give the schools a one-year time period to adjust to and plan for an increase.

And secondly, I believe that Mr. Gavin has sent us the citation that indicates that as the state agency director, he is unallowed to share the budget with us, the budget request with us, and it puts us in a little bit of an awkward position to be authorizing new positions and authorizing an increase without ever seeing what that means on a piece of paper relative to what kind of budget we're dealing with. So just those are both just comments, but I think as we look at any of the modifications that we're going to go and request next

session, it would be really nice for us to be able to see the budget. And I think that's probably embedded in the NACSA recommendations actually.

EXECUTIVE DIRECTOR GAVIN: So just to address that point, Member Conaboy, we're trying to figure out a way of getting an appropriate level of information to the Board that doesn't put us in danger of violating the statutory expectation regarding the confidentiality of the governor's budget request. I think we may have a little bit more flexibility there than I previously understood, and I'm hoping we're going to be able to give you some information in August.

The reality is, we don't -- we're in -- the budget building process is so back loaded in terms of when this actually gets done and the process you go through with the budget office that it's very hard until it's actually built and essentially submitted to get much of an overview on this just because every one of the decision units gets vetted separately. So it is a cumbersome process that is designed to meet the needs of the overarching executive and legislative side, not the very reasonable points raised by this body. I think it's also one of these real tensions that probably needs to be addressed in statute between again the role of agency versus the role of board and who does what because there

is an expectation of a certain segregation of duties and other areas of statute that is a little bit ambiguous from ours.

I would say, for example, the Department of Ed and the State Board of Ed do not have these discretions because there is that separation, and that's sort of the precedent that everyone looks to us, but I would agree that our statute is somewhat ambiguous on this, and it puts us in a pickle.

CHAIR JOHNSON: Any other questions? All in favor of the motion?

THE BOARD: Aye.

CHAIR JOHNSON: All right. Taking note of Member Conaboy's remark about being a little wary, can we take a five-minute break understanding we will have lunch at around 12:30? Break for five minutes, and then we'll return.

(Recess was taken.)

CHAIR JOHNSON: We're going to move on to Agenda Items 5 through 10, and I just want to remind our schools that we certainly know you work really hard with the Authority staff on a lot of these, and so the necessarily length of presentations, while they were useful in the past, we're moving towards maybe we can expedite some of these, and we're hopeful that we can do

the majority of these before lunch and not that time isn't of the essence, but we want to make sure we elicit the facts and there's no disagreements with the recommendation, we can continue to move forward. All right.

So we'll start with Agenda Item No. 5, which is consideration and possible action on American Leadership Academy charter application. Mr. Gavin?

EXECUTIVE DIRECTOR GAVIN: Mr. Chair, in service of your goal of moving through these as quickly as possible, you are in receipt of the staff's report related to --

(Brief interruption.)

EXECUTIVE DIRECTOR GAVIN: Apparently, AT&T also want to take a bio break. You're in receipt of the recommendation. Staff recommends approval subject to basically just cleanup conditions and addressing the concerns raised by staff. Unless the school objects to this or the board wants to talk about it further, I recommend approval.

CHAIR JOHNSON: I actually did have one -- just for my own clarification, how do we know those concerns have been addressed, and how do we make sure that we hold them accountable to the concerns that we raised so that we move for -- I guess this is a blanket

statement. So that when we move forward, we can say that this has been looked at and we can hold all of our schools accountable to things we want to see happening.

EXECUTIVE DIRECTOR GAVIN: We will not execute a charter contract until this is done to our satisfaction. And if there is a disagreement, they can certainly come back and we can have a 45-minute conversation about minutiae, but these are folks who seem to want to run a good school and are interested in laborating with this agency to get to where they need to be, and we've taken -- we've, frankly, gone way outside of the statutory timelines through our own capacity challenge, some of the things NACSA has raised. Each of these applicants has been extraordinarily collaborative and patient with us in a process that has been less than ideal. And so based on that precedent, I'm not overly concerned about pushback. If there is, they can come back here, and you can always decide that you're not going to execute a contract because you don't like the terms.

CHAIR JOHNSON: Is there any further questions?

VICE-CHAIR MACKEDON: I don't necessarily have a question. I would actually move to approve the school with conditions to be addressed prior to execution

of a charter contract, but I do think we should at least have the committee formed just so we have a face like when we're looking out there, who is going with which one of these. Come up to the table so we can just see them, and then I'd gladly make that motion.

CHAIR JOHNSON: So committee, if you would come on up, please. Quick introduction of yourselves will be very helpful for us.

MR. SCHOLER: Guess my light is on, so that means I speak first. My name is Eric Makli Scholer. So spelling this out is going to take a little while. E-R-I-C M-A-K-L-I. Last name: S-C-H-O-L-E-R.

MS. CURTIS: Megan Curtis. My name is much more simple to spell: M-E-G-A-N. C-U-R-T-I-S.

MS. HARTMAN: And Melissa Hartman: H-A-R-T-M-A-N.

CHAIR JOHNSON: While all of you have roles on the board subsequent to this --

MR. SCHOLER: We do. Yes, we're all Board members. One thought that I had listening to Coral Academy and then also with NACSA's mention about only approving applications that are viable that are thorough in their application, I couldn't agree more that we do fit that mold. We've spent a lot of time together as board members visiting campuses that are affiliated with

American Leadership Academy down in Arizona, and I just feel like we -- I can see us sitting here where Coral Academy sat earlier today thanking you for helping them expand their campuses, and I can see us being that same way in a couple of years.

VICE-CHAIR MACKEDON: I'll make a motion to approve with conditions to be addressed prior to the execution of the charter contract, and congratulations.

MEMBER SNOW: I'd second the motion.

CHAIR JOHNSON: Any further discussion? All in favor?

THE BOARD: Aye.

CHAIR JOHNSON: All right.

MEMBER CONABOY: Mr. Chairman, would it be inappropriate to just ask one question while the Board --

CHAIR JOHNSON: Would it be inappropriate?

MEMBER CONABOY: I'm hoping it wouldn't be even though I didn't --

CHAIR JOHNSON: I was trying to understand your question. Yes, it would be appropriate.

MEMBER CONABOY: Okay. So the one thing I'd like to understand from the Board is who their target population is. Evidently, in the face-to-face interview, it became much more apparent to the interviewers and to staff, but I see that Leadership has certain successes in

other communities with a certain demographic, but it's not clear to me that that's actually their target in Las Vegas. So maybe just a one-minute explanation of who the target is, and I would feel a lot more comfortable then.

MR. CHRISTENSEN: My name is Jeremy Christensen. That's: J-E-R-E-M-Y. Christensen is: C-H-R-I-S-T-E-N-S-E-N. I am the proposed director for the school. The target population we're going for is North Las Vegas. The exact -- the general demographic of the area we're looking to go is about 39 percent white, 61 percent minority. We currently have eight operating campuses in Arizona, and of those, we have a far less heterogenous group of students, just -- we're in the Southeast Phoenix Valley, and so we're serving a more predominately white population there. And what was the follow-up question to that?

MEMBER CONABOY: Well, I was just looking to understand your target demographic because when I saw North Las Vegas, I thought you might be helping us with our outreach to underserved populations. And then I would assume that your curriculum and some of your school culture would be based on target populations.

MR. CHRISTENSEN: Yeah. We've designed a curriculum that's accessible to all students. It's designed to reduce achievement gaps between the lowest

performing students and the highest performing students regardless of demographic, and it's something that we're very, very focused on is helping every student succeed.

CHAIR JOHNSON: So would it be fair to say then as we start looking at what the demographics would be a year from now, it should be more closely representative of the surrounding neighbors, so roughly 40 percent white and then 60 percent people of color?

MR. CHRISTENSEN: Yeah, it's all going to be based on lottery. Obviously, we can't discriminate on enrollments, so that will all be determined by lottery, but yeah, we expect it to be representative of the population.

CHAIR JOHNSON: Any other questions from members of the Board? All right. Congratulations.

MR. CHRISTENSEN: Thank you.

CHAIR JOHNSON: All right. Next we'll move to look at Nevada Academy of Sciences and Arts. Director Gavin?

EXECUTIVE DIRECTOR GAVIN: Thank you, Mr. Chairman, Nevada Academy of Arts and Sciences, this is an applicant for whom the staff has recommended denial. The reasons for that recommendation are outlined in the report. I would note that we have been in contact with the applicant, and they have not represented that

they had any objection to the recommendation. And to my knowledge, there is no representative from the applicant group here. We were quite clear during the capacity interview, we were very direct about our concerns regarding the level of participation and engagement by members of this committee formed with only one member who was actually a proposed board member participating in the capacity interview and deferring most questions to either staff or proposed staff or proposed consultants. So I do not anticipate that there will be any -- if they want to come back, they know they have to do a much better job.

MEMBER SNOW: Mr. Chairman, based on that information, I am going to make a motion that we follow the staff recommendation for denial.

CHAIR JOHNSON: Second?

MEMBER LUNA: Nora Luna. Second.

CHAIR JOHNSON: All in favor?

THE BOARD: Aye.

CHAIR JOHNSON: The motion passes. All right. We are also onto Item 7, consideration and possible action of the Nevada State High School Meadowood charter application.

EXECUTIVE DIRECTOR GAVIN: Thank you, Mr. Chairman. You have the staff recommendation related to the Nevada State High School Meadowood charter

application. The recommendation is to approve with conditions to be addressed to the satisfaction of staff. I would note just because it is an important milestone in the history of the Authority and in the implementation of our new statutory powers that Nevada State High School will be the first charter school in Nevada to convert from a charter school to a charter management organization by having one governing body overseeing multiple charter schools. So each of these schools will be legally separate entities with separate academic accountability and separate evaluations of other areas of performance. Mr. Hawk is here, or Dr. Hawk is here. If he wishes to make additional comments on this, I'd certainly welcome them.

DR. HAWK: Staff is here to answer any questions that you have. John Hawk, for the record: J-O-H-N H-A-W-K, chief operations officer for Nevada State High School.

VICE-CHAIR MACKEDON: Just for the sake of our new board member, Dr. Hawk has been running one of the oldest and successful charter schools in Nevada for many years. They have a been a five-star school always, so I think I would move to approve the application under the condition that everything is worked out with staff prior to executing the contract.

CHAIR JOHNSON: Do I have a second?

MEMBER SNOW: I'll second that motion.

CHAIR JOHNSON: All right. Mr. Snow. Get in here. All right. All in favor of the motion to approve the recommendation?

THE BOARD: Aye.

CHAIR JOHNSON: All right. On to Agenda Item No. 8. Consideration and possible action of Nevada State High School Sunrise charter application.

EXECUTIVE DIRECTOR GAVIN: Is it sufficient to say ditto?

CHAIR JOHNSON: I think we'll take that just for this time around, Dr. Gavin.

VICE-CHAIR MACKEDON: Move to approve Nevada State High School Sunrise campus, with the conditions being met with staff before executing the contract.

MEMBER CONABOY: Second.

CHAIR JOHNSON: All in favor?

THE BOARD: Aye.

CHAIR JOHNSON: All right. Thank you, Dr. Hawk. Congratulations.

DR. HAWK: Thank you, Members of the Board. Thank you very much.

CHAIR JOHNSON: Agenda Item No. 9. Consideration and possible action on Coral Academy of

Science Expansion Amendment application. Director Gavin?

EXECUTIVE DIRECTOR GAVIN: Thank you, Mr. Chairman. Coral Academy of Science is also one of the highest achieving charter schools in the state. And this proposed amendment will allow them to, as you heard during public comment, to fully build out a separate high school and will increase the enrollment of the Coral Charter School, which is a multisite network, but multiple campuses by an additional 750 to a thousand additional students. Staff recommends approval.

CHAIR JOHNSON: Any questions or discussion?

VICE-CHAIR MACKEDON: I would move to approve. We've a got a huge waiting list, a great track record, and this would be a great benefit for Las Vegas.

EXECUTIVE DIRECTOR GAVIN: Let me just -- actually, I would add maybe be clear about one thing. There were some very minor conditions that we made pretty standard during the charter contract, so if you could just say we'd move to approve staff's recommendation, it will make our lives easier on the record and make our court reporter friend happy.

VICE-CHAIR MACKEDON: Yes. Move to approve staff's recommendation; approve with conditions.

MEMBER SNOW: I'll second that motion.

CHAIR JOHNSON: All in favor of approving the

recommendation staff recommendations with conditions?

THE BOARD: Aye.

CHAIR JOHNSON: All right. Thank you. Congratulations. All right. And then Agenda Item No. 10, consideration and possible action on the Somerset Academy amendment request. Dr. Gavin?

EXECUTIVE DIRECTOR GAVIN: Thank you, Mr. Chairman. As you're aware, Somerset Academy is a well-established multisite charter school which also has an enviable academic track record, and it has also increasingly become one of our more intentionally diverse school, moving from a population that was not representative of its local community to being one that in terms of race and ethnicity, is far more representative, and they are taking additional steps with relation to students with disabilities and with student income levels to increase diversity.

I would note that we have had some ongoing discussions with the operator of this, and they wish to just clarify. They are entirely willing to implement a weighted lottery consistent with statute. Their only concern is ensuring one, that the regulation is passed providing for it, and all of the mechanisms are in place so that they're not breaking any laws. And the second piece is that if we required it, I should say we should

require it because they want to do it and it's important precedent, but I think with the caveat that if that reg goes down in flames at the legislative commission, they can't be forced to do something that isn't in regs yet.

MEMBER SNOW: I'll move to follow staff's recommendation for approval subject to any conditions.

MEMBER CONABOY: Second.

CHAIR JOHNSON: Any questions and discussion?

MEMBER LUNA: Do we need to add the recommendation of weighted lottery, or is that included in the motion?

MEMBER SNOW: I'll be very specific. I'm going to make that -- I'm going to modify my motion to include the weighted lottery subject to review by staff and our counsel to include that.

EXECUTIVE DIRECTOR GAVIN: And subject to the approval of the legislature.

MEMBER SNOW: That's what I just said, at least that's what I meant to say. Thank you, Director Gavin.

CHAIR JOHNSON: All right. So I guess we need a second on that amended motion.

MEMBER CONABOY: I would second that amended motion.

CHAIR JOHNSON: We have a one-part

discussion.

MR. HOWELL: Clayton Howell, for the record, with Academica Nevada. One clarifying question that I had in regards to the contingency was just the language described Somerset moving from a written charter to a contracted charter. The Board has not voted as of yet to move to the performance framework contract which we had anticipated they will at their next board meeting on August 4th, and so I just want to make sure that that was clear that the Board hasn't currently approved to move into that contract, and they plan to submit for an early renewal to approve that on the August 4th board meeting.

MEMBER CONABOY: Mr. Chairman, I need to ask Director Gavin. I thought movement into a performance based charter contract was an assumption if people come with amendments like this.

EXECUTIVE DIRECTOR GAVIN: Thank you, Member Conaboy, for the question. Yes, that is accurate. I think to be clear, what we are trying to do here is not to have to basically waste a whole bunch of time with a renewal which staff will be recommending approval on based on the school's track record and just get both of these things done in succession so we're not doing two sets of contract negotiations in a nine-month period. We just want to get it done once. So that is, I believe,

what Mr. Howe was noting is that staff has asked that this be contingent upon us getting that renewal done, too, which will happen next month.

MR. HOWE: Further clarification, Somerset's charter runs up the end of next year, so in a year's time, they would have to move to a contract anyway, so they understand that there's no need to put it off until a year from now, so that's why they're considering it on the August 4th board meeting.

CHAIR JOHNSON: Is that sufficient, Member Conaboy?

MEMBER CONABOY: Yes. Thank you.

CHAIR JOHNSON: All in favor?

THE BOARD: Aye.

CHAIR JOHNSON: All right.

EXECUTIVE DIRECTOR GAVIN: Do we want to hit 12, Mr. Chairman?

CHAIR JOHNSON: I would like to, yes. The last item before we break for lunch. So, Mr. Kern, understand you are between us and our lunch -- Quest Academy and Silver State Academy receive an update by Mr. Kern and The TenSquare Group. No pressure.

EXECUTIVE DIRECTOR GAVIN: As if my job wasn't hard enough already.

CHAIR JOHNSON: It's no fun if it's not hard.

It's good to see you.

MR. KERN: It's good to see all of you.

CHAIR JOHNSON: We're excited about the update.

MR. KERN: Well, good morning. Good afternoon. I guess this is now officially good afternoon. My name is Joshua Kern, and as you know, I am the receiver for Quest Preparatory Academy and for Silver State Charter School. I am here today to provide a brief update on both schools. Before I begin, I want to say that some of you attended a presentation I gave in Nashville at the National Charter Schools Conference, and I hope you can attest to the fact that I am not always so somber.

Unfortunately, the circumstances around my appointment at Quest and Silver State are troubling, but I want to assure you that it won't always be like this, and in the not-too-distant future, my testimony will be much more upbeat. I also want to note upfront that one of Quest's landlords recently mentioned in passing that we should just close the school, that I've done as good a job as can be expected, but that because we are not paying rent, we just need to close. I think you heard a similar sentiment in public testimony this morning. And this has confirmed my suspicion that I had caused

frustration for some of the adults in Las Vegas.

There is no question that for the adults in this room and me especially, the easy thing to do would be to close Quest. What the landlords don't appreciate is that we are not here to solve the problems of adults. We are here to do right by kids. And sometimes, that conflicts with the interests of the business people and other so-called adults.

I've been involved in the charter movement for nearly 20 years. The integrity of the movement is of the utmost importance to me. I am not just going to roll over because folks who have exploited charter schools are pressuring me to do so or because they have hired elected officials to serve as their attorneys. And as we now are well aware, many of the people in business with Quest took advantage of the school and its students at every possible opportunity. Not only am I unsympathetic to the frustrations expressed by these people, but my defiance to their agenda is the very reason for my appointment.

So without further adieu, here is where things stand with the two leased campuses. Torrey Pines. As you will recall, when I last appeared before you on the morning of June 24th, 2016, I told you that Fred Wade had twice informed me in a 2.5 hour meeting on June 23rd, the day before the last SPCSA hearing, that the landlord

has authorized me to report to the SPCSA that notwithstanding the lack of an agreement between the parties, Quest would be allowed to remain at the Torrey Pines campus for at least the 2016-2017 school year. The landlord's tone abruptly changed after a meeting on June 28th, 2016 with Mayor Pro Tem Ross, Mr. Wood, representatives of McKay Academy, and my legal counsel. At that meeting, Mayor Pro Tem Ross stated, in no uncertain terms, that he would not extend the special use permit to allow any school to operate at the Robson campus site. Within an hour of the conclusion of that meeting with Mayor Pro Tem Ross, Tony Windsor, who has an interest in the property, the Torrey Pines property, visited the Torrey Pines campus with representatives of the McKay Academy to tour the site as an alternative location to the Robson campus.

On the morning of July 7th, 2016, less than one week after the meeting with Mayor Pro Tem Ross regarding the Robson campus and less than one week after Mr. Windsor gave McKay Academy representatives the Torrey Pines tour, Mr. Wade informed me that Windsor had rejected our latest offer and that Quest should immediately vacate the Torrey Pines campus. The landlord has since filed two defective five-day notices to pay rent or quit at Torrey Pines. He recently perfected his

motion, and we are prepared to timely file a response.

Our response will very clearly lay out a breach of fiduciary duty and a confidential relationship by Tony Windsor, who simultaneously served as vice-chair of the Charter for Excellence Foundation and was the landlord of Torrey Pines. We will also make a clear and compelling case that all defendants committed constructive fraud, a tortious and contractual breach of the implied covenant of good faith and fair dealing and were unjustly enriched. I will share a copy of our response with you when it is filed. It is a devastating indictment of the landlord's conduct at Torrey Pines, and I am confident that we will remain at Torrey Pines this upcoming school year.

Bridger campus. Just this past Tuesday, the property owner of Bridger, Larry Ryder, filed a five-day notice to the foundation CFE to pay rent or quit at Bridger. I am working with counsel to craft our response which will be similar in many ways to our response at Torrey Pines. I will keep you posted on any further developments at both Torrey Pines and Bridger. We're also just this morning trying to negotiate a settlement with Larry Ryder at Bridger. Still holding out some hope that we can do that and avoid having to go through the entire litigation process.

Okay. Silver State. So on Monday and Tuesday -- is this -- if this is not part of the agenda --

VICE-CHAIR MACKEDON: I just want to make sure I'm clear. So the original site where the private school was going to move into, they denied the special use permit for, and so they're basically coming in and saying they can now have Torrey Pines, the landlord?

MR. KERN: That's how it appears. Yes.

VICE-CHAIR MACKEDON: I just want to make sure I've got all of these players and places in mind.

MR. KERN: Right. The LLC that was the landlord for Robson was an LLC called the Dynamic Distribution, and the LLC that -- we think that the LLC that owns Torrey Pines is called Tower, Tower Industries, and there's clearly some overlapping interest in those LLCs. So when they put into Robson, they're now trying to get into -- yes.

EXECUTIVE DIRECTOR GAVIN: Mr. Kern, just for the education for our new members and in light of the conversation this morning regarding foundation relationship, can you just give a brief primer on the relationship between Quest and Charter High School?

MR. KERN: Absolutely. So I know you guys are trying to get to lunch, so I'm going to try to keep

it short.

CHAIR JOHNSON: I was just joking. This is incredibly important.

MR. KERN: Okay. Well, sometime back a couple of years ago, board members of Quest, the chair and vice-chair, a gentleman named David Olive and Anthony Barney, apparently along with some staff, thought it would be a good idea to start a foundation that would ostensibly support Quest, and so they did start a foundation called the Charter for Excellence Foundation and were able to get a 501 (c)(3) for the foundation, and they then executed with the school an independent contractor agreement which was a comprehensive support agreement which gave the foundation the role of, among other things, finding new locations for Quest, negotiating leases for Quest, and performing other functions. And for that, they received a 20 percent markup on all expenses of Quest, including things like paying utility bills.

One of the other things that the foundation did was they inserted themselves into the leasing structure at Bridger, such that the owner of the Bridger campus leased to the foundation for \$27,000 a month, and then the foundation even turned around and leased the same exact property to Quest for \$41,000 a month. This

is why it's so troubling that the gentleman who owned the Torrey Pines property, when the property was being -- when the lease was being negotiated with Quest, was at the same time serving as the vice-chair of the Foundation's board which had a fiduciary duty under the independent contractor agreement to provide those services in the best interest of Quest, and it is so painfully obvious that the agreements that were put in place were not at all in the best interest of Quest. And I could talk for a very long time about the details of that, but I will spare you. Does that answer -- is that helpful, Patrick? Mr. Gavin. My apologies.

EXECUTIVE DIRECTOR GAVIN: I get called far worse on a regular basis.

MR. KERN: Do you want me to move on to Silver State, or are there other questions about Quest? Okay. So Silver State. On Monday and Tuesday of this week, I was in Carson City on behalf of Silver State Charter School, and I met there with the union representatives. As you may know, Silver State has a unionized teacher core. I also met with the lawyer for Silver State, a gentleman named Ryan Russell, and the executive director, Kit Kotler. I visited the school, I toured the facility. I met with some of the staff. I also went to the three banks where Silver State has

accounts and updated the signature cards. I will issue a preliminary report in the near future with my findings and plans for improvement.

In the meantime, I want to let you know that the school faces three immediate issues: student enrollment, teacher hiring, and refinancing of the school's facility loan which comes due this September 30th. I'll work with the school's administration over the next month to do what we can on all three fronts before school opens.

When the school year starts at Quest and Silver State, I will initiate a comprehensive performance audit at both schools that examines several key factors in school performance, including student achievement and accountability measures, staffing structures and processes, instructional and academic programs, enrollment, and operations and compliance systems. The performance audit will combine data and document review, observations and interviews to help me assess the strengths, challenges, and opportunities for improvements and transformations at both schools. We will examine a variety of documents including student handbooks, staff handbooks, professional development plans, written curricula, staff and leadership meeting agendas, school improvement plans, policies and budgets. We will analyze

school performance on state district accountability frameworks, looking at student achievement results and other school performance indicators over time.

Using formal observation protocols, we will assess classroom instruction, common area use and student transition. We will also conduct structured individual and small group interviews with school leaders, key staff and faculty. I would have done this at Quest earlier this school year, but frankly, there were just more immediate crises at hand that needed to be managed, and the fact that the school at the time that I was appointed had such a significant budget deficit didn't really allow for me to focus on this kind of work, but this work is essential to understanding really exactly what is happening at the schools and how to improve their performance.

I will share a copy of the performance audit with Mr. Gavin and this board when it's finished sometime this fall for both schools. Last before I take questions, I want to just talk a little bit about parent outreach at Quest, which is something that we talked about when I was last here. So here are some of the things that we've done since I was last here. We followed up on our initial letter to parents concerning the liaison with the second letter with details about

upcoming meetings.

On June 28th, we sent out a letter to parents introducing a new PTO president, accompanied by a welcome letter from the PTO president. On June 30th, we sent out an e-mail regarding the dress code and supply lists. At the end of June, we sent out packets to families with the calendar supply list, dress code, uniform sales date, and block party information. On July 7th, the parent liaison hosted a meeting with the Robson parents which included informational meetings for families regarding high school options. The meetings covered graduation requirements, testing in Nevada, school choice options and presentations from other schools.

From July 11th through July 14th, the high school liaison, Stephanie Brown, met with families individually that signed up from the July 7th meeting. On July 12th, the administration met with the new PTO regarding plans for next year and ways to reach out to parents. On July 15th, we e-mailed out the back-to-school event flyers. On July 19th, we sent out a welcome letter to all families and updates about the '16-'17 school year. On July 21st, we held the uniform sale at Torrey Pines. On July 23rd, we had a block party at Bridger. The office staff has done two full rounds of calls to every family, reaching out to parents to verify

enrollment and answer any questions they have about the upcoming year, and we've also begun the process of updating more regularly our website so that parents can see what's happening through the website and also through our Facebook page. Thank you. Happy to answer any questions you may have.

CHAIR JOHNSON: I just had a quick question about the Silver State issue. You named three: student enrollment, teacher vacancies and refinancing, which is due still to happen. Of those three, which would you say is the most severe? And then looking forward, do you anticipate then to be able to kind of push through those issues, in particular, student enrollment and then the refinancing?

MR. KERN: Yeah. It's hard to classify priority within those three. I would put all three of those as priority ones. There's a lot of things that need to happen at the school that I didn't put in that list there that just didn't make that first cut, but, I mean, the school seems to be under enrolled for next year. It's hard to know exactly by how much, but I think they submitted a budget to the SPCSA for 280 students, and I'm very confident that they're not going to get the 280 students. How far below 280, it's hard for me to know after just one week on the job, but it could be

under 200.

CHAIR JOHNSON: What does that mean for the --

MR. KERN: I'm looking at that now. They still need to hire a couple more teachers. Again, it's a little bit of a moving target because the model is based off of a student enrollment count that we're probably not going to get to, so how many teachers we need to hire, I'm still not exactly clear on, but we're still in the hiring process, which at this late date, I understand sometimes happens, but it's concerning to me. Not just the ability to hire, but the ability to hire quality. And then the refinancing is challenging as well because now that the school is in receivership, it's going to be difficult to get refinancing. I mean, honestly, it's basically impossible even under the best of circumstances to refinance a \$3 million note in two months. So I think we're going to be looking at some combination of getting an extension on the loan that's currently due. Bank of America doesn't want to give the extension, but I think the reality is that if you don't -- if you can't pay it back, what are they going to do really -- exactly? So we'll negotiate some terms of an extension, and then we'll also look to refinance. But that will be a challenge as well, of course.

Beyond that, I think, you know, the school -- we need to take a serious look at the school program, and that will start with the performance audit. And from that audit, we will deliver very clear recommendations at kind of a practitioner's level of what needs to happen in order to improve that school's program.

CHAIR JOHNSON: I'm pretty concerned. That program is important obviously, but if we don't have students enrolled at the campus, all of those things start to snowball in terms of teachers coming or going, being able to pay bills because that's based on the number of students, you know. How do we kind of mitigate any of these risks of the school not being able to stay open through Christmas because they can't pay bills?

MR. KERN: Yeah. Well, the school -- the one thing that is good is that the school does have some money. It appears that the school has like six different bank accounts, but it looks like the total of all of the accounts that are not just covering like immediate expenses and payroll could be as high as about \$800,000. So I think the school, with appropriate adjustments as necessary, as we learn more about what the enrollment will actually be, should be financially viable for this year.

I think we can, you know, my impression, and

this again is based on kind of a one week on the job, is that this is going to have to be, for Silver State, a transformation year, that we're going to be somewhat building the car while we drive it, so we will work through this year to make this next year as good as can possibly be, but with an eye toward what should Silver State's program look like in the future because I don't know that the program that it is now is necessarily the one that makes the most sense.

CHAIR JOHNSON: Thank you.

EXECUTIVE DIRECTOR GAVIN: Mr. Kern, there's a member who wishes to ask questions, wishes to interrupt me, but you sat through the NACSA recommendations and discussion this morning?

MR. KERN: I did.

EXECUTIVE DIRECTOR GAVIN: You are the person in charge of two schools that are among the most challenged in the portfolio.

MR. KERN: Right.

EXECUTIVE DIRECTOR GAVIN: What conclusions and recommendation would you make to this body regarding what we can do to ensure that we don't get to this point with anybody else?

MR. KERN: That's a great question. So I generally thought the presentation was good and had a lot

of helpful ideas in it. There was one thing that really struck me that is different from how I would have answered it, and one of the first questions one of the board members asked. I think it was actually the chair. You asked how -- basically, this is his exact question, which is how can we distinguish in the application process between a school that is viable and is going to be high quality and a school that does not meet that test? Because a lot of times, none of the applications bring with them a lot of experience that we can use to judge and distinguish between. And the answer you got was the plan. What does the plan look like? Is it thorough? Does it make sense?

And that's not how I would have answered it because for folks who have run schools and started schools, once you're running a school, what your school looks like as compared to what your plan was oftentimes, there's not a lot of overlap. And people can write the best plan. People can outsource the writing of the plan to really smart people who have nothing to do with the school once it opens. In my experience, it's about people. It's not about the plan.

And what you're doing as authorizers is you're essentially acting as venture capitalists in a way, and you're opening up a funding formula, public

funding spigot, and you do that based on your evaluation of the people involved and of course the plan, but primarily, the people, just the way a venture capitalist would. You're investing in people.

I would be concerned, for example, about an applicant who comes to you with a great plan but couldn't tell you who their executive director and principal is going to be because the greatest plan in the world is not going to yield a great school if you can't find good people to run it.

So, you know, my work these days -- when I'm not doing receivership work in Nevada -- is really about a practitioner's approach to improving schools, and it's oftentimes different than what someone who kind of like has an education theory might suggest. So I could go through the presentation and give you my, you know, specific recommendations on each thing, but I would say largely, it was good and I had a lot of important information, but I think there were some things that I would have said or done differently, frankly.

CHAIR JOHNSON: Question for Mr. Kern?
Member Conaboy?

MEMBER CONABOY: Thank you, Mr. Chairman.
Mr. Kern, you mentioned -- I think I heard you mention that at Silver State, you're going to do small group and

focus group interactions with teachers and administrators and students. I'd just ask -- and maybe it's there by insinuation, but I'd just ask that you would work closely with the parents. I think that was maybe a little bit of a hole at the beginning of your relationship with Quest. I mean, I know you were juggling a lot of other things, and I appreciate that, but we've had some very active parents here in the hearing rooms who are very concerned about it, and I'd really just like to ask that you keep them engaged and apprised of progress so that they have adequate time to make decisions if they need to make a change.

MR. KERN: Absolutely. Thank you for the reminder, and I will do that. Thank you. Great. Enjoy your lunch.

CHAIR JOHNSON: Thank you, Mr. Kern. Look forward to seeing you next month. With that, we will break for lunch until 1:15. That gives us 45 minutes.

(Recess was taken.)

CHAIR JOHNSON: We will reconvene now at 1:15 right on the dot. Perfect. Okay. So we will begin with Agenda Item 13, update and possible action regarding staff discussions with Nevada Connections Academy regarding school's plan for improvement. We will receive an update on and may discuss the status of discussions

between SPCSA staff and School officials and attorneys regarding school's efforts to develop a plan of improvement. The Board may register approval or disapproval of the plan or direct staff to take further action or require adjustments to the plan. Director Gavin?

EXECUTIVE DIRECTOR GAVIN: Thank you, Mr. Chairman. You have, in your packet, a copy of both the plan that was presented by the school previously and the updated suggested metrics and measurements for each year of the next several. That last item with the actual proposed measurements is the last page of the handout in your packet. I apologize for the late arrival of this item.

I think the school has worked -- has been deeply engaged for quite some time in thinking through this work, and it took a little more time than I think they probably would have liked or that we would have liked, but they did provide us with some clear goals and timelines, so I want to make sure that that's clear.

Staff is supportive of the proposed measurements which they set a target for the December 2016 reports, reported graduate rate as well as the December 2017 and 2018 measures which would move the school to a 60 percent plus level of graduation rate by

December of 2018. Staff recommends that the Board approve these particular goals.

We do note that there are some -- that we do have some concerns in some other areas which I'm hopeful the school will let us know if they concur or disagree with our recommendations in those areas, but it primarily relates to one, that these goals and measurements be memorialized in an updated charter contract which makes very clear what the accountabilities are, that provide that the Board may consider other data points that the school chooses to provide that are externally validated by an appropriate third party, but where most of those data that can be provided there will not have a comparable indicator for other schools. The Board has to have some ability to make a determination whether -- of how much weight it wishes to give to that information.

I think it's entirely appropriate for the Board to say yes, we think this is really compelling information, and we want to incorporate it and perhaps not take an accountability action in case the school does not meet a goal. But on the flip side, I think it's inappropriate for the Board to be bound to making a particular determination for information that -- where we have no way of predicting what its real value or comparability is. We think it's important to continue

the conversation because this is a school -- these are schools that have brought up interesting arguments related to other ways of looking at school performance. We just -- as if nothing else for pushing the policy conversation wise as what other things the State as a whole should be tracking and figures out for schools and certainly informing of upcoming accountability conversations that Mr. Werlein of the school and other members of this body and other members of our staff and folks from across the state are engaged in with the different work groups with the Department of Ed. So we want to make sure there's some flexibility there, but we can't commit to something we don't know enough about. It's too forward looking.

CHAIR JOHNSON: Questions and discussion?
Any thoughts?

MEMBER LUNA: I have a question. So the 60 percent graduation rate, again going back to -- they did talk about how the data could be looked at different. Can we include that kind of too, I guess, and depending on who authored the data so that it's a higher graduation rate for the students that start at the school versus the students that they come up with a credit deficiency? Do you know what I'm saying? Because the explanation for the 60 percent graduation rate is that you get students

that come in in the 11th grade credit deficient, and you can't catch them up in a year, but the students that start with you are at a higher graduate rate.

EXECUTIVE DIRECTOR GAVIN: That would be the target everyone would like. If the State wishes to, I think it's going to make sense because they're the mechanisms to actually doing something comparable. But basically, crack the yardstick in two and say we're going to create our own special metric without the Authority or the capacity to do so, raises serious concerns.

VICE-CHAIR MACKEDON: We would have to then start looking at that for every single one of our schools, and I can guarantee you even a school that had an 85 percent graduation rate, their graduation rate for these kids who had been there all four years would be even higher. I mean, it just stands to reason that number goes up for all schools and not just virtual schools. So that's not how -- unfortunately, I don't disagree. I mean, I will say straight out I'm sitting on the accountability advisory group, and I'm advocating for some things like that personally because I don't disagree, but we still have to use the yardstick that is the yardstick, in my opinion.

MEMBER LUNA: Mr. Chairman, could we be heard on that point?

CHAIR JOHNSON: I just have a question, Mr. Gavin. How does then the fifth year graduation rate back up to any of this? I guess I'm trying to get clear on that point. I know you mentioned in the recommendation or in the briefing initially about how there's a dip, but I just want to make sure I'm clear about how that factors into any of this.

EXECUTIVE DIRECTOR GAVIN: The school did not propose a target related graduation rate, so we didn't bring it up.

CHAIR JOHNSON: Okay.

EXECUTIVE DIRECTOR GAVIN: I would note also that one of the challenges with the fifth year graduation rate is that while there is a verbal commitment from the department to do it, it also -- there's no basis in statute or reg for it, number one at this point, although yes, NACSA does permit that it's something states can do in the future. I can't predict what they'll do and when they'll do it.

They collected the data to be able to do the validation several months ago, and they've informed us that they won't get around to it for quite some time because of all of the challenges they're facing with the implementation of the Infinite Campus. It's the same folks who do both things. And while it's something that

the department wants me to do, I can't rely on when they're going to do it. They have a statutory obligation and an obligation to the feds to report a graduation rate by the end of each calendar year, so that's something I think we can hang our hats on.

CHAIR JOHNSON: Okay.

MS. GRANIER: Thank you, Your Honor. Laura Granier on behalf of Nevada Connections Academy. We have some other points we would like to make. But in response to Member Luna, I just wanted to say that I think you absolutely have not only the statutory Authority, but the statutory obligation to consider that kind of information. You're not creating a different standard for a school by considering that kind of information.

What you're doing is this is all set up in the context of SB 509, and that 60 percent trigger, and what you are doing is looking at all of the elements -- evidence relevant to that rate. It doesn't mean that you're going to -- and that is exactly what the legislature intended. So I don't think you need any new regs or statutes to do exactly what you asked us to do, and I think that's absolutely appropriate to look at the fifth year graduation, the fifth year cohort rate and look at -- look beneath just a single four year cohort number. And that was the whole reason that we thought

you all and the director asked us to get third-party validation about the data we were presenting to you. And our board voted on that and is spending the money to have that done in response to that request so that you can consider that information as meaningful.

I'm a little perplexed by the suggestion that you shouldn't use that information because you can't compare it to other schools. I didn't, you know, I don't think this is about a comparison to other schools. I think this is about how is this school serving the students that are enrolled. And when it gets credit deficient students or it gets students that come in the door and are there for two weeks and those students then bring down that four-year cohort rate, that is all information that I would submit to you you are statutorily required to consider.

You heard earlier from NACSA what we said to you a couple of months ago, which is we are absolutely subject to the APA hearing. The school is entitled to due process, and those due process rights are critical, and I appreciate Member Guinasso's questions earlier and statement about that in recognition of that, is we are entitled to have you consider evidence, and agency decisions must be supported by substantial evidence. As Director Gavin mentioned, he would be your source of

evidence right now. This is a good source of evidence, and that's why we -- that's why the school took seriously, it took to heart when the question was raised well, what's the validity of this data? You have to get some third party to validate it, and they said, "We'll go do that." So again, we do have other points, but I just I appreciate the opportunity to respond to that point directly.

DEPUTY ATTORNEY GENERAL OTT: When you say there's a statutory obligation to consider this data, is that under the general obligation to consider a school? I mean, you're not saying specifically there's a statutory obligation to consider any metrics the school desires, just the general board's obligation to evaluate the school. Is that what you're getting at? Just trying to look for a citation.

MS. GRANIER: We can look into this further certainly about it off-line, but generally, at a minimum, I am talking about what every administrative agency is required to do when it makes a decision which is supported by substantial evidence and not act in an arbitrary and capricious manner and SB 509, when the legislative history talks about the compelling evidence that would be considered in addition to just that four-year cohort graduation rate.

DEPUTY ATTORNEY GENERAL OTT: Thank you.

Deputy Attorney General Greg Ott again. I just want to make clear because I sent you the memo regarding the graduation rate information that I got from your client. We haven't had a chance to talk about this because our schedules have been difficult, but I want to make sure that I understand you're not arguing that the graduation rate should supplant the one that is calculated for the 60 percent. You're arguing that other metrics need to be taken into account when the decision to -- accountability decisions are made; is that correct?

MS. GRANIER: I'm not sure what you mean by what graduation rate would supplant something else.

DEPUTY ATTORNEY GENERAL OTT: There was discussions about a fifth year graduation rate or alternative graduation, some bifurcated graduation rate or other ways to look at a graduation rate. What you're -- what I hear you saying is those things need to be considered, but it's not in place of the 60 percent graduate rate. It's in addition to or in some other way when accountability decisions are being made.

MS. GRANIER: I think it's part of it. I think that graduation rate is not defined in that statute, and I think that part of the information for graduation rate but also part of the information to

create substantial evidence upon which to make a decision requires consideration of those factors.

DEPUTY ATTORNEY GENERAL OTT: So you don't think that graduation rate is adequately defined in law currently?

MS. GRANIER: It is for different purposes and different places.

DEPUTY ATTORNEY GENERAL OTT: I didn't mean to sidetrack the legal disclosures. I just wanted to understand what the point was, and I think it's safe to say that I disagree that it's not adequately defined in statute. I think it's clearly defined in federal law.

VICE-CHAIR MACKEDON: I think this is a complete case in point why it does not behoove us to look at a bunch of other stuff because we get into these conversations, and it becomes a spiral, and it becomes our issue and our fault, and I think this is a perfect example of why we stick to what is defined, right, wrong or indifferent. And hopefully, we can improve the situation. Now that we have ESSA, and the State has some flexibility, thank you. But to me, this is why we need to stick with what is defined because we have a hard enough time even dealing with that personally.

MEMBER CORBETT: Member Corbett, for the record. Quick question. In terms of your graduation

trends, are you able to just -- do you have information in regards to it attributed to a high school deficiency or credit deficiencies in terms of not meeting that or being that low?

MR. WERLEIN: It's primarily -- Steve Werlein, for the record. It's primarily due to kids coming very credit deficient and then taking more than four years to actually graduate.

MEMBER CORBETT: Okay. And then in terms of -- and correct me if I'm wrong -- over the next two years, of course there's a -- we're going to be tracking or not tracking graduation very differently than we ever have before because in the course of exams and the openness, and so how -- has that been built into your projected numbers?

MR. WERLEIN: We've looked at that. Our primary focus is looking at the credit approval rate of students of when they come in and knowing that they have to complete those course requirements, building that into their coursework. But again, our biggest challenge is the number of kids that come in late, and that is highlighted in our -- in the main body of the plan what -- you know, if you're with us for four years versus if you're with us for four months, what that graduation rate is. So we're looking at everything. The bottom line is

we want that four-year cohort rate to improve. We're not trying to hide behind anything, but there are a lot of factors that go into it. That's really what we want to look at.

CHAIR JOHNSON: And so right now, you don't see that modification with graduation requirements over the next couple of years being a factor?

MR. WERLEIN: Not particularly.

CHAIR JOHNSON: Any other questions from members of the Board? I guess I'm just thinking about the pathway to 60-plus percent. I mean, I know we keep -- again, we talk about the different circumstances that are there. I think I would agree with Vice-Chair Mackedon then that we have to kind of put the -- we have to be able to stick to what we know to be true today, and as things evolve, we can evolve with them, but we have to be able to put a -- we have to be able to hold people accountable to the things that we want to be true, at least as the rules are written today.

And so the four-year graduation cohort rate is the one where we like a benchmark. I would like to see these benchmarks go up even faster. Just thinking that 55 percent of the kids may not graduate, again, regardless of the situation, I don't think that anybody's goal is to have 55 percent of kids not graduate. And so

I think, you know, that we have to be able to say we are tracking towards a goal and putting our plans in place to meet really ambitious goals. I would have loved to see this goal be a little bit more ambitious. I know you're working incredibly hard. I'm not saying that that isn't hard work, but if that goal -- if this could be done by 2017, I'd be even more happy. But just -- so there's no other discussion, I guess --

MR. WERLEIN: Again, Steve Werlein, for the record. We purposely -- we want to go beyond those benchmarks, too. We're not ever going to say, "Well, we're going to hit it, so let's back off." We want to be as aggressive as we can. We also want to be realistic, and we also want to get in a position where when we know we're not going to make a benchmark and then we have to look at our student population and think well, how else can we hit this mark? We want to take all of the students that come to us.

And then to your point about 55 percent of the kids not graduating, that's of course not acceptable. But going back to the previous conversation, knowing that some of that 55 percent might graduate in five years or six years, that's still something we want to -- we have to be cognizant of. Just because a student comes into us at second semester of their senior year with two credits,

it's going to be very hard to get them graduated in four years, but five might be an option. So I just wanted to add that. Thank you.

MS. GRANIER: Laura. And, Mr. Chairman, if we could, we had a couple more comments to make. Thank you.

CHAIR JOHNSON: Did you have something else you wanted to add?

MR. KREMER: Yes. Thank you. My name is Rob Kremer, with Connections Education. I was involved in the development of the graduation rate plan and worked in a lot of other states on behalf of Connections with similar issues in similar states.

At issue here is a question of should this body be looking at something in addition to the four-year adjusted cohort graduation rate when making a decision, for instance, a decision on the possibility of a closure of a school. And if you'd indulge me one second just to go down a little thought exercise with me. I can envision the school with the following attributes. Imagine a school that has half of its students enrolled as ninth graders, and all of those students graduate in four years. The other half of the students enroll first time as juniors, age of juniors, and are one year credit deficient. Those kids all graduate in the fifth year.

So we have a four-year adjusted cohort graduation rate of 50 percent.

According to the way this body is now pursuing this, that school would be closed down unless you look at the other evidence, and that's what we're driving at here. That school shouldn't be given awards, obviously, 100 percent of the students graduate. Some take five years when they enrolled late. So that's the point we're trying to make here. We can envision a school that has less than a 60 percent four-year adjusted cohort graduation rate that is actually a stellar school doing very well by its students, but the way this is being approached, that is not allowed to be seen or even viewed.

EXECUTIVE DIRECTOR GAVIN: I would object to that characterization of that recommendation to be clear, and if the language is unclear, I will make it explicit now. The recommendation is that the Board shall consider and make its primary -- the only thing it has to consider and make a determination on is the 60 percent, but it gives you discretion in terms of these other metrics and other findings of an external part.

There's nothing in this recommendation that says -- that binds this Board to terminate the charter contract, reconstitute the governing body, place in

receivership, anything else. It simply says that it gives you the Authority to do so based on the findings you make and says the finding you must use or the data that you must use is whether the school has met these graduation rate targets using the standard adjusted cohort.

This Board does have discretion to look at other things, but what this Board should not do is commit to things that it can't possibly predict and basically allow an entity to determine for you what you should be measuring and then be in a position to litigate it because they don't like your decision.

VICE-CHAIR MACKEDON: So basically what we're saying is we may look at other evidence, but we're not going to be beholden to that evidence.

EXECUTIVE DIRECTOR GAVIN: That is the intent. Yes, ma'am. We want to ensure that there is a mechanism so that the school can present compelling information. It is your job to decide whether you believe it is compelling or not, and the only thing you should agree to in the contract is that you will consider but you're not required to follow their particular interpretation, to the best of my knowledge, Connections Inc. and their lobbyists and their attorneys do not run this Board. They may think they do since they were here

at the inception of the Authority.

CHAIR JOHNSON: Thank you, Mr. Gavin. We got it. Thank you so much. Did you want to add one more point? Sorry. I didn't get your name.

MR. KREMER: It's Kremer.

MS. GRANIER: No, he didn't, but I would just like to say related to that, I think the context for Mr. Kremer's comment, not to speak for him, was simply that we've been -- the school has been here with you under notice of closure a couple of times now. So I think we're all having this dialogue in that setting, so we're just trying to make a point that the school is not hiding from this. The school is not blaming this on anyone. We are just trying to put the relevant information before you. And neither the school nor I think we have control over this Board. We appreciate the time that has been put into this. We are here just to put evidence before you and ask you to act in a reasonable manner.

With respect to several remarks that have been made, you know, there's discussion about the school being under a contract. The school is not under a contract. The school has a charter. There have been attempts to -- so this is, I think, the only remaining school that's under -- that's operating under a charter,

but we are not subject to a contract.

We did not see staff's recommendation, and I think it was uploaded this morning, and I understand Mr. Gavin explained why that was the case, but we have not seen any contract. We, for the first time this morning when we downloaded the staff memo, saw that there's this recommendation that you ratify -- you look upon the graduation improvement plan favorably and the goals favorably, but only if Nevada Connections Academy will enter into the same contract that Beacon Academy has entered into, which now is publicly available and was signed on July 26th, yet we've never been provided a draft of that contract.

Now that I look at it, it waives statutory rights to judicial due process. We have not had any discussions around that. So once again, I am perplexed that there has been collaboration, and we appreciate that. The school has done everything you have asked it to do, and no one is hiding from any data. And in fact, the school has been very transparent about that, and the school is effectively serving students. You know, you asked for a graduate improvement plan, and the school went to work and spent several months creating a very good graduation rate implementation plan that was commended by Member McCord and that the school is in the

process of implementing and that the school is confident will start to show fruit probably already even -- probably summer school and from the intervention, the very meaningful intervention plan that has been in place.

The school is trying to track down students that are no longer there and haven't been for a couple of years but are being counted against the graduation rate. So you asked for third-party data validation. The school is doing that. We are cooperating absolutely. But to show up here today and for the first time see on the agenda that the recommendation to you from your staff is that you only approve these goals, which staff does agree with the proposed benchmarks. And of course the school hopes to beat them, but that you only approve those with the condition that the school enter into this contract that's been negotiated for months with Beacon that we've never seen when we haven't even been told that -- Mr. Gavin did talk about well how these are enforced should be put into a contract, and that was all I heard of it, and that was a couple of days ago.

So, you know, what we would ask you to do is if you're to approve the benchmarks, you do so without that condition. We are happy to sit down and talk about what should be required or how those benchmarks will be continuously reviewed. We are continuously under your

regulatory oversight. There is no need for a contract like this, especially one like that that requires a regulated entity to waive their statutory rights. I have never seen a regulatory agency require a licensee to waive their statutory due process rights just to have their authorizer or their regulator approve something. You know, the school has the record. They have publicly presented to you what their goals are. You have general regulatory Authority. There is no need for it, and I think no legal Authority for mandating a contract, and particularly under the circumstances here where there's been no meaningful discussion about what that contract looks like, and you're being asked to commit Nevada Connections Academy to a contract that the Authority saw fit to enter with Beacon Academy. The fact that that might have worked for their situation doesn't mean it fits here.

So we would respectfully ask that, you know, given all of the time and effort that has gone into this on both sides from this Board and staff and the school that you not render a decision like that.

CHAIR JOHNSON: Any other comments?

EXECUTIVE DIRECTOR GAVIN: Staff would be comfortable if the school charter could be negotiated between our counsel and theirs versus the specific one,

but this is, if nothing else, should be a jumping off point. I would note that this Authority has previously approved a standard form contract.

VICE-CHAIR MACKEDON: That's what I was going to say. I feel comfortable with this because if they don't agree with the contract and you can't come to an agreement, it would come back anyway. So I would move to approve staff recommendation -- Board approve these goals, enter into a charter contract agreed upon which contains terms agreed upon by both entities. Do I need to add anything?

CHAIR JOHNSON: Yeah. Before you do, Deputy Attorney General?

DEPUTY ATTORNEY GENERAL OTT: Deputy Attorney General Greg Ott. My reading of the recommendation -- and Patrick can correct me if I'm wrong -- but was not that the Board or that the school somehow be forced to waive its rights to judicial review. It was with regard to this specific set of accountability metrics which are limited by the recommendation. Closure is being taken off the table. If these targets are not met that that decision regarding revocation or regarding reconstitution or the appointment of a receiver would not be subject to judicial review. That's not something that's in statute. That would be something that would be a portion of this

contract, so it would not be waiving your other rights, for instance, if the Board were to have serious organizational or financial decisions that would cause it to be revoked under a statutory framework.

My interpretation of this -- and Patrick can correct me if I'm wrong -- those judicial review rights still exist. However, for the purposes of these very limited accountability decisions which are lower than what are allowed by statute so, you know, you can be under 55 percent and only reconstitute or only be reconstituted or have a receiver. That would not be subject to judicial review, and that's only really the procedural aspects because the amount of whether that graduate rate met the threshold would still be subject to judiciary view.

So Patrick, correct me if I'm wrong, but I don't see that as a waiver of your statutory rights at all. It's merely defining what is able to be reviewed under the auspices of this specific agreement.

EXECUTIVE DIRECTOR GAVIN: Staff concurs with that analysis.

MS. GRANIER: And that's a material waiver for -- first of all, there's been no evidence or indication or even an explanation in discussions as to why a receivership or a reconstitution would be

appropriate based on this single measure, and in fact, NACSA's discussion earlier talked about the importance of looking at financial performance, and there was a third one. I can't remember. Organization. So that was the first problem.

But the second problem with the waiver, even a narrow one you're talking about is why would the school be put in a position where they're forced to waive the right to have a judge look at whether this Board actually considers substantial evidence such as the very things we've been talking about here that are outside the four-year cohort graduation rate simply so that -- for what? And what legal Authority is there to force the school into a contract at this point when they're operating under a charter? I don't think there is any.

DEPUTY ATTORNEY GENERAL OTT: Deputy Attorney General Greg Ott. I think in a contractual setting, both sides get something. In this case, your school gets the right to have a graduation rate of 50 percent and not have revocation be a consequence of that particular thing, where under statute, it would be subject to revocation. So you would be getting decreased graduation rate targets in return for some other trade-offs. So that's, I think, the contractual answer.

MS. GRANIER: And what's the legal Authority

to force the school to go to a contract at this point when we have a charter in place?

DEPUTY ATTORNEY GENERAL OTT: Well, I guess arguably, I guess if you don't consent, then that's something that could be litigated. If you choose to say no, we don't want these conditions and we're not going to sign any contract, I'd have to look for the statutory Authority. I was going to -- I saw no reason why the school would be unhappy with this. It seemed to be 90 percent of what the school wanted, but we haven't had a chance to discuss that prior to. I'm kind of surprised by your conversation.

CHAIR JOHNSON: It sounds like this particular part, I think at least, I am ready to entertain a motion around what we did to move forward because I think it's actually Chair Mackedon that the contractual agreement actually, if we can't work it out, we're going to go back and forth anyway. But again, for us to actually start moving forward and have some very measurable benchmarks, we actually have to start putting some things in place.

MEMBER CONABOY: Mr. Chair?

CHAIR JOHNSON: Yes, Member Conaboy?

MEMBER CONABOY: May I just ask if this item, this agenda item, even though I'm not sure that I see the

word anywhere, but is this certain essentially an amendment to the written charter? And I ask that question -- I mean, to amend metrics seems to me to be an amendment to the charter, and what we have been doing since the passage of AB 205 with performance based charter contracts is to require schools that seek significant amendments like this to enter into a charter contract with us. I'm interpreting this.

CHAIR JOHNSON: Who is that question directed towards?

MEMBER CONABOY: Well, perhaps Mr. Ott.

DEPUTY ATTORNEY GENERAL OTT: Deputy Attorney General Greg Ott. I think that's a proper characterization, Member Conaboy.

MEMBER CONABOY: And our negotiations to move from a written charter to a charter contract have not required anything in advance. It's just been a negotiation upfront based on whatever it was that the amendment requested. Is that also correct?

DEPUTY ATTORNEY GENERAL OTT: Yes, that's correct.

MEMBER CONABOY: So are we talking about accepting this as an amendment and then that would trigger the necessary action of converting the written charter to a charter contract, and all provisions of the

contract are subject to negotiation?

EXECUTIVE DIRECTOR GAVIN: So with regard to the question of the amendment, yes. This is clearly a material change because the school is going to actually have performance targets that can be measured. With regard to -- and that are enforceable and where it's very clear what they are.

With regard to the negotiation, I would note that everything that has happened since February of 2016 through today with discussions with the school is negotiation. We have been negotiating extraordinarily important material terms to our relationship with this school. Certainly, one of the things -- if there's particular language that the school wishes to erase concerns about or push back on with relation to our contract, that is also something that they may do.

The Board is not obligated to follow what the school requests. It can make decisions based on what it thinks is appropriate policy with relation to this particular relationship at this particular school. They are asking you for the rights to continue to operate. They are asking you for the right to continue to take public funds and to serve public children. Staff has listened very carefully to the concerns of school, of this school and its stakeholders, including its parents

and kids, and we concur with their concerns related to what about the challenges that they might face with finding other options if the school were to be closed.

We also believe the school has tried very hard on a leadership and governance level to engage with this Authority and address our very serious concerns and work collaboratively on this. But at the end of the day, if there is no -- if it isn't very clear what this Authority's ability is to actually make important accountability decisions, then I'm not sure that any of this conversation since February has had any value other than just to demonstrate that we've been trying.

CHAIR JOHNSON: Thank you, Mr. Gavin. Vice-Chair Mackedon, would you like to repeat your motion?

VICE-CHAIR MACKEDON: Okay. Let's see. I recommend the approval of these goals contingent upon the school entering into a charter contract which contains terms agreeable to both parties.

CHAIR JOHNSON: Is there a second?

MEMBER CORBETT: Second.

CHAIR JOHNSON: All in favor?

THE BOARD: Aye.

CHAIR JOHNSON: Any opposed? Any abstaining? Member Conaboy, I don't know if we recorded your vote.

MEMBER CONABOY: I was saying aye while Danny was talking.

CHAIR JOHNSON: Oh, okay. All right. So the motion passes. All right. We will move to Agenda Item 14: Update and possible action regarding staff discussions with Beacon Academy regarding school's plan for improvement. The Board will receive an update on and may discuss the status of discussion between SPCSA staff and school officials and attorneys regarding the school's efforts to develop plan and improvement. The Board may register approval or disapproval of the plan or require adjustments to the plan. Dr. Gavin?

EXECUTIVE DIRECTOR GAVIN: Thank you, Mr. Chairman. You have before you the staff report related to Beacon's graduation rate improvement plan. I would note that as is the case with Nevada Connections, due to timing issues and working through concerns with counsel and whatnot based on the new item we received, their proposed language on Sunday night, that the school didn't have as much time as it might have liked to review.

I would also say we didn't have as much time as we would have liked to review the other side. So just to be clear on that, but I want to emphasize a couple of things here. First, the school did not propose annual

measurable performance targets, and that is of concern for staff. That said, I wish to be very clear that the school continues to be very collaborative and thoughtful on these issues. They have voiced general support for goals.

I think that they're not quite there yet, but it puts us in a little bit of a tough place because the guidance from the board was that the school will propose measures and then staff will respond and say whether we think they're good, not so good, what have you. But I would also note that the actual theory of change encapsulated in Beacon's plan for increasing graduation rate is extraordinary thoughtful, and it is clear that Principal Tondryk and her team are grappling with how to make fundamental change in a school which has historically willfully underperformed. And I think it is very clear that this school is at least as impatient as we are with where it is right now, but my friend Tambre, we've got to have some goals here. And if you're in a position of what those would be now, I'd love to have that conversation.

CHAIR JOHNSON: Good afternoon, Ms. Tondryk.

MS. TONDRYK: Good afternoon, Chair Johnson, Members of the Board. Thank you for providing the opportunity to come before you today and present our

school improvement plan. With me is Travis Cherry, our technology coordinator, and Dr. Garza, a professor from UNLV.

Before we begin, I would like to share some good news. We had 105 students in cohort 2016 that have graduated. We have 14 that are still working towards graduating in August. Nine students from cohort 2017 have already graduated. Nineteen adult students have also graduated, so we have 133 graduates to date. We are here today to explain when we will reach 60 percent and our plan on how we will get there. So at this point, I'd like to turn it over to Dr. Garza.

MEMBER CONABOY: Excuse me, Mr. Chairman. People need to introduce themselves, and so I need to ask Ms. Tondryk to do that and Dr. Garza when he comes back.

MS. TONDRYK: I'm sorry. Tambre Tondryk. T-A-M-B-R-E. Last name: T-O-N-D-R-Y-K.

DR. GARZA: And this is Dr. Tiberio Garza. Tiberio: T-I-B-E-R-I-O. Garza: G-A-R-Z-A. And again, just thank you for the Board's patience. And again, I'm the third-party validation part of this, so when the presentation comes up, after that there's a validation part related to it. It's very short. Working with Beacon Academy, I also just -- since I'm the third-party validation, I did that, but I also recognized that in

order for me to just know more, to know that data-driven decision making process, it's just essential for me to also just take data and report back to them like on a monthly basis. That way, I could form those goals and be able to have just better information related to being able to predict when the 60 percent graduation rate will be reached. And as you've heard before, there are challenges. That's not different.

CHAIR JOHNSON: I just have a quick question. I know this is supposed to be goals, and I'm trying to understand. I think we went through the presentation or when we presented the performance plan, and so I was hopeful that we would get -- and I know that you tried to work over the past couple of weeks to try to get goals in place, but I'm just trying to understand where we are with the goals? And I don't know if the presentation will address that specifically.

DR. GARZA: Right. And there's also a -- Beacon submitted some action steps related to the goals, too.

CHAIR JOHNSON: Okay.

DR. GARZA: So but what I want to present today is just how we broke down just the graduation cohorts and then the percentages related to that, and then there's a list of interventions where the students

fall in the cohort related to their credit deficiency. But here, just starting with this first slide, again, working with Beacon, we're making efforts. My part is just providing the information through data analysis. That way, we have a better informed decision about how to successfully reach 60 percent and past that. And so again, this is just the slide just illustrating that it's going to be based on the data we have and just being able to be proactive enough. That way, we can calculate when that will happen. And so but it also, a lot of it also depends on new policy implementations Beacon Academy has already voiced, the main one being the blended campus policy when they make that switch in 2017, I believe, but there's the policies before that that will also help increase the current graduation rate to within range of the 60 percent graduation rate. But it's that blended campus that Beacon Academy is really relying on to surpass that and continue up that upwards spiral to 67 percent, I believe, in two years from now or three.

MR. PELTIER: Mr. Garza, may I interrupt real quick? To the broadcast production service, can you put the slide show up to the north? That's not to you guys. This is to the people controlling the cameras. We can't see your guy's PowerPoint presentation yet.

DR. GARZA: So related to just --

EXECUTIVE DIRECTOR GAVIN: I'm not sure it's up yet. We just want to make sure. There you go. Thanks.

MR. PELTIER: We can see it now.

DR. GARZA: So the previous slide is, just again, trying to define the specific pathway to reaching 60 percent graduation and after that and just the idea that it's informed by just the data that's available and then whatever the data -- whatever is available just being able to predict from that. So that's just the basis. And so far, I've been able to analyze two samples. So since I was here earlier, I've only seen March and June, and the data report now is June.

And I just want to reiterate it's just my long-term commitment with the Academy to be a third party to continue to assess samples of students and being able to inform them of how they're doing. That way, we can create policy that makes them change towards the 60 percent graduation rate.

And so reviewing the action changes or the action steps that they have turned in to the Board, I put that into a logic model because a logic model helps all of us to be on the same page and know where we want to go and where are we and how the interventions that Beacon Academy has proposed will work across time and also the

outcomes we can be expecting.

Here I have both student outcomes and school outcomes. And again, the school outcome is just related to graduation rate. But the student outcome is related to the credit deficiency that we can see with the students. Now, this is just -- although you see this, and I tried to make it as specific as I can without the font shrinking down to font 10, but Beacon Academy has submitted some documents that are more explicit and has details on the specific interventions for students whenever they fall into specific categories of credit deficiencies like 25 percent not on task, 50 percent, 75 percent. We'll see that on the next couple of slides.

Just quick just descriptive information that these are the different frequency distributions of students within the different cohorts. You can see there's still remnants of 2014 and 2015 within the school. You can see the new focus, the main -- most of the resources will be focusing on 2017 and then the last, the 2016 cohort. So at this point, with the sample of 312 students, Beacon can see where their resources can go to address who is coming up for graduation.

And so it is the 2017 cohort as of June, June of this year, that makes most of the student population there. And it will be based on those that will generally

made -- the added performance targets related to credit deficiency since the purpose and the goal of this is just to be able to reach 60 percent graduation and then continue onward after that.

Just quick on the data, that is just my one slide on data validation. The sample was 313 students. One withdrew and one had no cohort assigned, so I was unable to put that one student in a cohort. And then nine students had different credit values other than .5 and 1.5. That's the normal credit here in Nevada, but other states will give you a .6, .7, and so that causes calculation issues, but they can still be resolved.

But I want to just give you one slide of just the data that was carefully and thoughtfully assessed for its quality. So if we look at cohort 2016, and so we're going to look at each cohort's currently, 14 students are above 75 percent credit completion. We would consider that on track, that just limited resources are needed for Beacon to help those 14 students get that graduation rate still within 2016; and then just that 5 students are still reachable, but just the idea that there's still some lagging behind, so we can expect those in further years, so not in 2016. But we're looking at this as above 75 percent on track and below 50 percent requiring interventions.

And so in that document that Beacon submitted with the action steps and goals, that's what I'm referring to as the interventions, interventions to specifically target those students that fell below that 50 percent required credit sufficiency and to address that in a more aggressive and proactive method to at least increase the graduation rate related to those students that fall in that category.

EXECUTIVE DIRECTOR GAVIN: Dr. Garza, may I ask a question? This is helpful information, but ultimately, we're not credit trackers. But I just want to make sure I understand something. So you stated that the students in cohort '16 who are at 75 percent credit completion, you consider them on track to graduate on time; is that correct?

DR. GARZA: And it's only because they're currently in school right now.

EXECUTIVE DIRECTOR GAVIN: Okay. So my other question is just pulling up Microsoft Excel and doing equals 14 slash 22, I get 63.6 percent. Are you predicting then that you will actually surpass 60 percent this year? Is that fair, or am I reading too much into your data analysis?

DR. GARZA: Well, that's what I was going to get to. And that is a good assessment, Dr. Gavin. The

one thing, though, that I haven't mentioned is the unknown. As time goes on, there's going to be an influx of 200 students, and so you're right. We're on track to 63 percent graduation, but that's with known variables. So the unknown is Beacon Academy can expect up to 200 students that will enroll at the rest of -- as we start the next academic year, and then that's going to change that.

EXECUTIVE DIRECTOR GAVIN: So forgive me, then. I just want to be clear because I think I'm now understanding something I didn't understand before. When you're describing cohort 2016, you are describing the students who will graduate or who should -- who are scheduled to graduate at the end of '16-'17, not students -- because my reading of that is cohort '16 is now, like that's the grad rate that's being reported in December. You're telling me it's December of 2017 instead; correct?

DR. GARZA: Correct.

EXECUTIVE DIRECTOR GAVIN: All right. That's really helpful information because I was thinking mission accomplished. Yeah, very helpful. Thank you.

DR. GARZA: And another thing I want to emphasize, these are returning students.

CHAIR JOHNSON: I was just going to ask that same question. You mean the starting is the base of

kids, children who started in ninth grade with you and who move all the way through; correct? Is that not correct?

DR. GARZA: It's a mix of ninth and those that have come in at 11th and 10th grade.

CHAIR JOHNSON: Okay.

MR. CHERRY: Travis Cherry, for the record. T-R-A-V-I-S. C-H-E-R-R-Y. This sample was taken from the students who confirmed that they're just coming back from '16-'17 year.

CHAIR JOHNSON: Okay.

DR. GARZA: And so just moving on to the next cohort, so that one has 143 students. And so again, this is just how we would define on track related to cohort '17. And so above 75 percent we would consider on track, and then below 50 percent, in need of interventions. And so this is just kind of the broad categories of just go by 25, 50, 75, of how to address which students need interventions. That way, they can contribute to the 60 percent graduation and over. But again, these are estimates based on the returning students right now as I analyzed in June. But I recognize this is something I have to do constantly because of the influx of students that may come in in September and October and November, and so it's just needed, and I'm committed to that

long-term efforts to get to have -- that way, Beacon has an informed decision in being able to address that in a more timely manner.

And then again, here I'm just describing the cohort 2018. And so one thing -- you might not have noticed the pattern. The students on track where at the first bullet point, 48 or above 48 percent of credit completion, but the second bullet point, that one continues to express the larger pool. So we think it would distribute the people -- most of the people, and so that's where I told Beacon Academy to focus on the midsection of the students. That way, the midsection of that population contributes to the higher end, and so that will just increase the graduation, but that's just where the school can focus its resources, more of it. But not to say that all students receive educational services and resources, but just knowing strategically where to focus.

And then again, just looking at cohort 2019, just being able to inform Beacon Academy of who is on track and who requires intervention, even at that early stage. So this would be this freshman, the first year entering Beacon Academy.

Other than that, what's driving the logic and just the way I'm thinking about this and organizing

information so I can inform Beacon Academy is just my own just strategic intervention framework for graduation retention, and this is just related to that analysis, more of just methodology just looking -- continuing assessing the data and looking at Beacon's capacity to be able to help those students that are identified through assessment and then going through the policy planning to see what can be done and looking at the interventions: are they working are they not working, and what else has to be done even if they're not working and just continuing the evaluation of just the general progress. This, I wasn't sure whether to add or not, but this is just kind of my general thinking.

MS. TONDRYK: This is Tambre Tondryk, for the record. So I would like to draw your attention to the plan that we had submitted. Our strategic objective No. 1, that is for the 2016-17 school year. We recognized that we don't have an actual number in here, but one of the reasons is is because although we have validated where we are today, so if you look at our cohort 2017, these are the returning students only. And so when we look at them today, it looks very promising.

We have 62 percent -- sorry, 62 students who are above 75 percent complete. Those kids are on track. So we have 62 kids on track, no remediation required, no

high school proficiency. That's a solid group. Then we have 56 students who are above 50 percent credit complete. So we asked Dr. Garza to relook at that population to help us identify how many of them are above that 60 percent complete because we do feel that we can remediate. So this is our target population that we plan to focus on.

These are the 56 students that we know we can push up and over. If we came before you today and this were our cohort 2017 and we would not be enrolling any new students, yes, we're above 60 percent graduation rate. If we did this, we felt that we could commit to that. But because we have 200 student openings in our school that are not specific to grade levels, we cannot tell you whether or not we will have 200 new seniors, juniors, where they will fall in and what their level of credit deficiency is.

So because of that, we would ask that if you would like that specific number, we would like to come back at the end of September or early October when we would know our 2017 population. We changed our program, so it's very hard for us to say that last year in 2015, we had a 52 percent graduation rate. And then this year, we had -- we're not validated yet for 2016. And so as soon as we get our students through summer school, then

we will -- we can do not a validated number, but at least we will know our graduation rate.

We know today that we're sitting between a 50 and a 55 percent graduation rate, and we are just waiting for our final students to do their last push in this next week. And so we are committing to 60 percent in 2018. So the reason that we can commit to that is we are going to be operating a blended school. We will then be -- we plan to really emphasize enrolling those ninth and tenth graders.

We feel that one of the barriers that have prevented these students from enrolling with us is that parents don't want their ninth and tenth graders to be completely virtual, which is how we've ended up with such a large population of juniors and seniors; students that can take public bussing or drive themselves to school when they need to come in. And so that is why we're confident about strategic objective No. 2, which is reaching 60 percent in 2018. Hopefully, I'll be able to come back to you in a month or two and tell you that we will reach 60 percent in 2017, but we're very hesitant to commit to a number based on such a large number of unknowns.

CHAIR JOHNSON: So maybe the way I was looking at it, so it looks like you're unclear about

where you're going to be at the December 2017 when we figure that out. And then are we also unclear about where we'll be at December 2018? But then so because it says or you stated that the 2017-18 cohort would increase the graduation rate. So 2016-17 increases the graduation rate to a minimum 60 percent, so that means in December of 2018, we look to be at that 60 percent plus mark?

DR. GARZA: Mr. Chairman, may I comment?

CHAIR JOHNSON: Yes, Mr. Garza.

DR. GARZA: Another reason that that time is needed is just to be able to assess that unknown, that influx of incoming students. And so that's why that hesitation exists that you're describing.

EXECUTIVE DIRECTOR GAVIN: Patrick Gavin, for the record. Hitting 60 percent by 2018, I think that's not good, but it's at least getting -- 60 percent is also obscenely low, as everyone is aware. You know what your baseline is this year or based on last year's data. This number here, I believe I said to you -- and I know I communicated something similar to Connections as well in our discussions about targeting. We recognize that it may be hard to -- that it's almost scary. Everything is precooked for right now. If you want to set essentially lowball this year and then have a stronger target for the subsequent year and then the 60 percent by '18, that

is something I could certainly support.

The other thing that I wish to make very clear is I think it is more than appropriate to extend the same offer of terms to you that we have extended to Connections, and I believe I said this to you verbally as well, which is we can take closure off the table. Both of these schools are grappling with some really important stuff, and being able to actually see the turnaround of two large virtual schools and start to see a real change is something that it could make -- it would make you guys a national model and Connections Nevada a national model in terms of performance management and getting to where we need to be.

So I would -- with that sentiment, again, assuming the Board will endorse it, are you willing to put some numbers down on the table? Because it's just really, really tough for us to sit here and say it's okay to hope that we're going to get in by 2018 knowing that we've got so many kiddoes who are not getting what they need right now and knowing that we are in a very challenging policy environment. We are the lowest performing district in the second lowest performing state in the country.

We have to have a sense of urgency about change or be willing to break some legs in order to get

to where we need to be. So and I hope that this is a better tone than our last interaction in a board meeting, but the message is the same. We need metrics annually. Can you help us there, or can you help us help you?

MS. TONDRYK: Patrick, in the plan I submitted, the strategic objective No. 2 does state we will increase our graduation rate to a minimum of 60 percent.

EXECUTIVE DIRECTOR GAVIN: By 2018. However, I'm asking for annual numbers. 2016 and 2017 and 2018. And again, if you want to lowball year one, we can live with it. If you want to -- and if you're willing to commit to numbers, I am very willing to recommend that the Board take closure off the table provided reconstitution and receivership are elements and this goes back to again to what we talked about back in May. If we are not getting what we need to and our kids aren't getting what we need to, we need to make some kind of a change happen. And whether it's a governance change or a leadership change, and I'm saying that could be part of it. We're not prescribing anything. I would ask you to think about that, and if you want, some numbers on the table.

VICE-CHAIR MACKEDON: I mean like what you're suggesting is like -- their 2015 was 52.63 percent.

Lowball it, say your 2016 is going to remain steady, 52 percent, then we're going to say 55 percent, and then we're going to say 60 percent, like just three numbers that seem --

EXECUTIVE DIRECTOR GAVIN: With the caution, Member Mackedon, that that's a straw man that we're throwing out there just to -- versus prescribing.

VICE-CHAIR MACKEDON: Yeah, no, I'm just saying that's like what you're saying.

EXECUTIVE DIRECTOR GAVIN: That is precisely what I'm saying.

VICE-CHAIR MACKEDON: I'm not suggesting those. I'm just saying little incremental.

CHAIR JOHNSON: I think the overall sentiment is that we want to be able to have measurable steps that you're taking and that we can be able to hold -- we all agree on the pathway to the goal we want to see. I think we all agree over and over again that 60 percent is just like the floor, and so we want to have our plans toward the floor and then far surpass that. So I think that's what we're asking of you, just what are the those benchmarks going to be in terms of measurable hard figures. And I don't know if you need a couple of minutes to talk with one another?

MS. TONDRYK: I guess we're ready. Yeah, we

can agree exactly how Member Mackedon presented: 2016, 52 percent; 2017, 55 percent; 2018, 60 percent.

EXECUTIVE DIRECTOR GAVIN: Staff urges the Board to accept those metrics and to have the same requirements that basically would be in Beacon's current contract which they just executed to put these metrics in and to be clear on the issue of grad rate of at least that closure is off the table, reconstitution and receivership are on the table, and that we wish these folks the very best of luck.

CHAIR JOHNSON: Member Conaboy, you wanted to say something?

MEMBER CONABOY: I wanted to add a question. I've been sitting here listening to Director Gavin speak and listening to this issue of needing to quantify. And I'd like to commend Beacon because I think they've got a list here of action steps to be taken, but what I'm missing and I'm wondering if it's the same thing that Patrick was missing even before we get to 52, 55 and 60, is how to apply these action steps to these individual students who appear on Dr. Garza's slides.

And I'm looking under action step 4: early intervention and effective instruction practices. 4G really caught my attention, which is weekly, monthly or a term success plan meetings to discuss students' progress.

And I've done some reading lately, and I'm learning about individual graduation plans where when you have a child and the cohort in the subgroup that Dr. Garza described as the people who are off target as far as appropriate number of credits, that's where you direct your intervention services. But I'm wondering if it wouldn't be useful to -- and I don't know the extent of what I'm asking here, how much work it involves, so you can stop me if I'm way off track. But it would be useful for each of those students to have an individualized plan to get them to graduation so that when you get to 4G and you're discussing progress, you're measuring it against something. Does that make sense?

MS. TONDRYK: Yes. Tambre Tondryk, for the record. We do that. At the orientation, each student meets with the learning coach at which they set up the four-year grad plan and what we call a student success plan. At the end of every nine weeks, they re-meet and revise or adjust depending on their performance, but we use that to set long- and short-term goals each term. And we actually use the system that Nevada State High School uses. They came out and gave us a training with TrackVia. So we're going to be -- we have all of our students in that for the fall. We're just starting to use it, and that is what we're going to use to track

them. So it's a really robust system, and we're able to flag students within that who may be seeking to speak to a social worker or who may need tutoring in math or whatever it may be so that we can monitor those students very, very closely.

MEMBER CONABOY: That's exciting for me to hear. I see TrackVia in your plan, and I wasn't familiar with that term, but that's exciting to me because getting to this whole conversation about what data we're going to look at, it seems to me that now we can look on a student basis about what interventions were most useful, and you've decided what's appropriate. We can also look at what turns out to be most useful in helping these children succeed, and then that in turn leads to the overall success of the school, and that's very gratifying to me. Thank you for the explanation.

EXECUTIVE DIRECTOR GAVIN: Patrick Gavin, for the record. I would also concur. It's helpful information. And with great affection and respect, Member Conaboy, I would just note that we need to be careful about talking about endorsing inputs because ultimately -- or talking about outputs here, and I just want to be really careful that we don't get into micromanaging on the front end or endorsing or pushing things. It's problematic.

I don't think that's what you were doing, but it starts to be a slippery slope, and I just wanted to nudge on that because ultimately, we are not a technical assistance provider, and we're certainly not a research institution. Although it would be certainly wonderful to see Dr. Garza's findings on these interventions and if in the event that the school continues to make significant progress in these areas, not only is the turnaround in store, but it's also the kind of thing that could be disseminated at a later date once there is sustained success. I just want to make sure we don't get too far ahead of ourselves. So a lot of beautiful things in your sentiments. Member Conaboy, just want to make sure we're keeping -- we're staying -- just asking we stay within our --

MEMBER CONABOY: Director Gavin, I am not requiring anything of the school. I'm just trying to understand better what's in their written program. And in fact, I was essentially following up on your comment where they might be creating new models that would be, you know, useful lessons for others. Obviously, it's up to them to perform, and I am not in any way, shape or form trying to prescribe what should be in those graduation plans, but I just see a list here of things that they're planning to do. And at some point and day

in time, it would be nice to hear from them which interventions were most successful. I think we're on the same page.

EXECUTIVE DIRECTOR GAVIN: Thank you so much for clarifying, and I apologize if I overstepped. And I continue to have great respect and affection for you.

CHAIR JOHNSON: The love fest continues. But in order to move the meeting along, I will be willing to entertain a motion along with the recommendations that we have just talked about that encompassed the graduation rates that we mentioned. So I don't know if anyone would like to provide that motion.

EXECUTIVE DIRECTOR GAVIN: Would it be helpful if staff reiterate the recommendation?

CHAIR JOHNSON: Yes, it would be.

EXECUTIVE DIRECTOR GAVIN: So the staff's recommendation is to accept Beacon's verbally proposed targets of 52, 55, and 60 percent, one, and that the rest of the recommendation be consistent with what we made with Nevada Connections Academy related to contract and targets, et cetera, and taking closure off the table, just to be super clear.

CHAIR JOHNSON: One more time.

EXECUTIVE DIRECTOR GAVIN: So what we're going to do is 52, 55, 60 are the goals. Contract is

amended to incorporate goals and to take closure off the table, that is to say, termination of written charter -- charter contract off the table but keeping reconstitution and receivership on the table and saying that those two -- that on the sole matter of graduation rates that legal appeal only be subject to whether we didn't read the data, the publication from the State correctly.

MEMBER LUNA: Here is Nora Luna. I make a motion that we approve staff's recommendation as stated.

CHAIR JOHNSON: Do I have a second?

MEMBER CORBETT: Second.

CHAIR JOHNSON: All in favor?

THE BOARD: Aye.

CHAIR JOHNSON: All right. Thank you.

Mr. Garza, thank you. We can jump up to Agenda Item No. 3, which is an approval of the consent agenda.

Information concerning the agenda items has been provided to Board members for study prior to the meeting. Unless a Board member has a question concerning a particular item and asks that it be withdrawn from the list, items are approved through one action.

MEMBER CONABOY: Mr. Chairman?

VICE-CHAIR MACKEDON: Sorry. Go ahead.

MEMBER CONABOY: I apologize. I just had a quick question about one of the items. I would go ahead

with approving them if that's what the sentiment of the Board is. I just wanted to ask a clarifying question.

CHAIR JOHNSON: Of whom?

MEMBER CONABOY: I was just looking at the ACT Aspire contract, and it says that it remains in effect through 2019, and I just was trying to understand the urgency because we're now at 2016, and that's three and a half years away. I was just wondering if I read this correctly. That's all. I don't have any other concerns about the concept.

EXECUTIVE DIRECTOR GAVIN: The dates are correct. Yes, it is 2016, and the contract expires in 2019. What changes is that we don't get a blank check to test 100,000 children in that contract or what's described in statute and reg as contractual Authority or actual Authority. So you are the charter Authority, but in terms of Authority to spend money is linked to specific contracts for specific amounts, so we will have a material number of additional students this year who are eligible to be tested on Aspire.

MEMBER CONABOY: Okay. I missed that point. Sorry, Patrick. Now I understand perfectly.

VICE-CHAIR MACKEDON: This is Member Mackedon. I would just like to say, since I know ACT Aspire has definitely been a topic around here that the

schools just got the results from the ACT Aspire about two days ago, and I'd just say as a school leader, I love them. Their reports are awesome. They are way more timely than ESSA. God knows when we'll get those. They're just awesome.

And I think when schools open up those files, as they probably already have and are the next few days, they're going to be really pleased with the data that they get and with the timeliness of them. I mean, we can give this information to parents on back-to-school night. We can make plans. School hasn't even started yet. We can make plans, you know, for small group instruction based on this information. So I know it has been a topic, and I just wanted to say that getting the results now and in the format that ACT gives them is really awesome, and I would move to approve the consent agenda items.

MEMBER CONABOY: Second.

CHAIR JOHNSON: Thank you, Member Conaboy.
All in favor?

THE BOARD: Aye.

CHAIR JOHNSON: Aye. All right. Actually move to Agenda Item No. 2, approval of the June 24, SPCSA Action Minutes. Any discussion? Questions?

MEMBER CONABOY: I had just one question. I

don't think Dr. McCord was at that meeting, was he?

CHAIR JOHNSON: He was not. Actually, I was going to make that one change.

EXECUTIVE DIRECTOR GAVIN: Thank you. We will make that change. Our apologies for the oversight.

CHAIR JOHNSON: Any additional? All right.

VICE-CHAIR MACKEDON: I would move to approve the minutes from the June 24th meeting.

MEMBER CORBETT: Second.

CHAIR JOHNSON: All in favor?

THE BOARD: Aye.

CHAIR JOHNSON: All right. We'll move to the last agenda item, Item 15: Update, discussion and possible action regarding the State Public Charter School Plan. Director Gavin?

EXECUTIVE DIRECTOR GAVIN: I really didn't think we were going to get to this item. Patrick Gavin, for the record. So we pull it up. Sorry. I was like, oh, sweet. We can leave now, but no. It's really good that we're getting to this. So strat plan stuff. You have in front of you basically a two-pager on this strategic plan consistent with the guidance that or the request of the Board during the last meeting. You've asked us to essentially break out on a monthly basis sort of the discussion of the metrics for each chunk of the

plan. So this first month, we're really focusing on goal No. 1, and I apologize I'm rambling here because I'm looking for the document on the computer. Give me one second, folks.

CHAIR JOHNSON: That was a long sentence.

EXECUTIVE DIRECTOR GAVIN: It's amazing how much you can ramble while you're trying to collect your thoughts. But so the objective -- and again, so the first piece of this is really just an overview, and of course you've got the page 170. So we basically broke this up into two things. We set two big objectives, two big additional goals: by 2020, increase the number of high quality seats in the SPCSA-sponsored charters to 60,000, and then by 2020, enroll a statewide student population which was representative of our schools.

And the first one of those, the areas we talked about is goal No. 1 we're going to talk about today, which is opening and sustaining high quality schools that reflect demographics of their community, and we looked at three different pieces, three different pieces of that theory of change which are proactive enrollment practices, equitable funding, and then focusing on local talent to open new schools. And then we proposed three metrics related to that.

First was the percentage of open enrollment

charter stated with weighted lottery, the second was the percentage of charter schools mission specific at-risk preferences, and the third is the percentage, and number four is five star schools successfully implementing new leaders for new charter schools. So basically our baseline children on each of those is pretty low because these are very new initiatives. And I would note one thing that's super exciting about them is that for other reasons I happen to be looking at what the most recent round of federal charter school program grants criteria were. This is for the 2016 round in anticipation we're going to have to apply in two and a half, three years for more money.

And one of the big things that is emphasized as one of the key criteria for selecting grantees is this diversity of student population matter. So I think the fact that you guys are thinking about this two and half years before we're eligible to go and get money, and in two and a half years, we ourselves will actually be an eligible applicant pursuant to ESSA to apply for this money, so we won't have to go through the Department for it if we choose not to. The eligible applicants increased considerably in the reauthorization in the reorganization.

I think if we execute on this stuff, we are

going to be so far ahead of most other states on this work. And yes, we're going to have challenges because of our data stuff and not having test scores until 2018 and all of that other fun stuff, but this is critical stuff, and the fact we're going to have Aspire as our own parallel assessment is going to put us so far ahead of so many other states. So I really want to thank you for your leadership and partnership on this work on these three pieces in particular. With that said, these were just strung-in metrics. I think they're good ones, but you guys may have other ideas that we could also implement without having to create whole new systems. So have at it.

VICE-CHAIR MACKEDON: Member Mackedon, for the record. Adam, would you refresh my memory? Were we wanting to say like we wanted a certain -- like we wanted 10 percent of our schools to have open enrollment with weighted lottery? Is that -- were you looking for like really specific metrics like that or no?

CHAIR JOHNSON: I thought part of it was two parts. Number 1 was trying to determine which metrics we were going to use and then going back to the Authority for them to actually create those, and then we have some sort of dialogue. So I don't know that that's going to happen today when we come up with the actual figures, so

we say the percentage of open enroll -- I didn't anticipate us discussing the actual number.

EXECUTIVE DIRECTOR GAVIN: Yeah. I actually -- we have not, if you look at our strategic plan for 2013, we did not actually set scores, if you will. And I will note that this is an area where clearly, we need to get a lot better, and once we have baseline data, I think this should be part of an annual goal-setting conversation where we talk about this.

The other thing, I think that some of this stuff is going to evolve quickly. For example, the weighted lottery regs are not approved by Leg Com, we're going to have to change, number one. We have to recognize that on these kinds of more sort of mission specific versus the very clear-cut how many kids do we have in four and five-star schools, how many high school seats, that's a very clear number. But when you get to those larger issues that are about changing the landscape and our theory of change as an agency in leading the work of charter schooling in this state, those are a little bit -- this presupposes we've got a lot of four and five-star schools, especially the third one. And we talk about those later on.

But this is super new work, both for us and, frankly, nationally. This is an area where we're

actually -- I believe we have an opportunity to lead the rest of the nation on this because of the thoughtfulness and the sense of urgency that we all have to diversify this portfolio while ensuring we're getting high quality seats to kids all across the state of all backgrounds.

One of the wonderful things about charter schooling in this state is that, unlike in some states, it's not just a solution for black and brown children. The fact that charter schooling is so embraced in some of our affluent suburban communities provides us with extraordinary legs and staying power and makes it -- and creates a lot of bipartisan security support for doing really extraordinary work, but we've got to make sure that it's not just a benefit that for kids that look like me.

MEMBER CONABOY: Mr. Chairman?

EXECUTIVE DIRECTOR GAVIN: Hopefully with more hair.

CHAIR JOHNSON: Yes, Member Conaboy.

MEMBER CONABOY: Patrick, will you refresh my memory? Weighted lotteries kick in at a statewide level when there's a certain percentage of kids enrolled in charter schools? My real question is this inside or outside of our purview? This is really a state issue, is it not? Am I remembering 509 correctly?

EXECUTIVE DIRECTOR GAVIN: We've got draft regs in front of the superintendent that create the -- that allow for weighted lotteries as soon as this year, and that is also something that is explicitly encouraged in ESSA as well. What was required in 509 was that there was a threshold set by which point the superintendent had to adopt regs.

MEMBER CONABOY: Okay. So we can do this on a school-by-school basis before the State is required to require it?

EXECUTIVE DIRECTOR GAVIN: That is the intention. Yes, ma'am.

MEMBER CONABOY: All right. Thanks.

CHAIR JOHNSON: Personally, the metrics are incredibly exciting to me to think that we're going to move in a direction that's going to enable us to diversify our schools in a really meaningful way but keep the bar of quality incredibly high.

I think this is the absolute right direction we're moving in, so I don't know what the next step is here with this, whether it's, you know, recommendation to kind of adopt these metrics as one, but I will certainly be willing to take a motion to do this such, adopt these metrics as part of our strategic plan.

VICE-CHAIR MACKEDON: I would just also just

add I like doing it this way where it's like this small little chunk that you can really focus on and wrap your head around, so I would move to adopt the three metrics that correspond with goal No. 1. Goal No. 1 or objective No. 1?

EXECUTIVE DIRECTOR GAVIN: Goal No. 1.

VICE-CHAIR MACKEDON: Goal No. 1. Okay.
Yes. Goal No. 1.

CHAIR JOHNSON: Do we have a second?

MEMBER LUNA: I second.

CHAIR JOHNSON: All right. All in favor?

THE BOARD: Aye.

CHAIR JOHNSON: All right. Fantastic. We will move to our final item, which is public comment. Danny, do you have any public comment in the north?

MR. PELTIER: There is none.

CHAIR JOHNSON: I have one here. Dwayne Harvey, but I don't know if he's still here. Ms. Berry is shaking her head no, so we actually have no public comment. Then I will go ahead and adjourn our meeting.
2:45.

EXECUTIVE DIRECTOR GAVIN: Mr. Chairman, may I note one thing you and I talked about off-line? The Board will recall there is a requirement that pretty much the beginning of every fiscal year, the Board has an

election to appoint new officers, and Member Johnson and I had discussed previously to putting it on the agenda, and it was my error it was not incorporated in, but I want to make it very explicit to ensure that it is on the next agenda so the members can determine if they wish to deal with it at that point or put it off a month. At the very least, I think we are at least obligated to have the conversation even if it's just to say we're going to keep the same officer for another months, for two months, and then we're going to regroup. But that's your call, not mine. I'm just helping you manage yourselves.

CHAIR JOHNSON: Thank you. Having it on the next agenda will be very helpful. Thank you.

MEMBER CONABOY: Mr. Chairman, before we leave, could we maybe have our new members introduce themselves? Some of them I know, and some of them are totally new faces to me, and it would be nice to just know our colleagues just a little bit better, if we could spend five minutes on that.

CHAIR JOHNSON: We can, although we only have one member, new member still present. 66 percent of the others have had to --

EXECUTIVE DIRECTOR GAVIN: The others headed for the hills.

MEMBER CONABOY: It's actually Mr. Snow, whom

I don't know. So if he's who is left, that would be great.

CHAIR JOHNSON: It is not he who is left, but --

MEMBER CONABOY: Oh, it's not.

CHAIR JOHNSON: -- we still want the person who is left to introduce themselves.

MEMBER CORBETT: Hi, good afternoon. This is Stavan Corbett. I'm honored to be able to begin this journey with you and serve with you. It's very exciting for me. It's kind of full circle for me. This is kind of old hat putting back on from my previous state board, and so as I've been going through the process, I've been amazed at the life it has taken on and become. It's always truly an honor and a pleasure.

CHAIR JOHNSON: At the beginning of what, at the beginning of the August meeting, we'll have Mr. Snow and Member Guinasso introduce themselves. It was my error that I didn't at the beginning of this meeting. I was so excited to get started, so I apologize.

MEMBER CONABOY: Thank you, Mr. Chairman. I appreciate it.

CHAIR JOHNSON: All right. Everyone enjoy some warm weather.

(The meeting concluded at 2:49 p.m.)

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STATE OF NEVADA,)
)
CARSON CITY.)

I, NICOLE HANSEN, Official Court Reporter for the
Nevada State Public Charter School Authority,
do hereby certify:

That on the 29th day of July, 2016, I was present
at said hearing for the purpose of reporting in verbatim
stenotype notes the within-entitled public meeting;

That the foregoing transcript, consisting of pages 1
through 205, inclusive, includes a full, true and
correct transcription of my stenotype notes of said
public meeting.

Dated at Carson City, Nevada, this 8th day of
August, 2016.

NICOLE HANSEN, NV CCR #446