NEVADA STATE PUBLIC CHARTER SCHOOL AUTHORITY

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And

Grant Sawyer
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PARTIAL TRANSCRIPT OF PROCEEDINGS
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NEVADA CONNECTIONS ACADEMY

AGENDA ITEM NO. 6

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

BOARD MEMBERS PRESENT:

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

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CHAIRMAN JOHNSON: We will call our meeting back to order at 1:38. I apologize for being eight minutes tardy. 1:38 p.m.

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

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

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

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

MR. GAVIN: Okay.

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

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

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

First of all, thank you again for the -- I'm sorry.
CHAIRMAN JOHNSON: So we actually, over the course of the day, we actually received -- or yesterday received a continuance item on this item, and so the board has an opportunity to -- to vote on whether we would like to continue this item, Agenda Item No. 6.

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

MR. GAVIN: Patrick Gavin for the record.

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

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

I know Ms. Granier has expressed concern just based on the agency's capacity and bandwidth about our ability to sit down and have a meaningful conversation in -- other than, basically, out in the hallway yet again.
So I think both Mr. Ott and I have committed to her -- and I will certainly commit this to the other three schools in question -- you know, that we will engage in either face-to-face or telephonic discussions within the next two weeks. Again, calendars are tough to switch, all the other things that we're expected to do as an agency, but I think that's -- I think that is a reasonable thing.

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

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

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

We feel it is critical that we have the opportunity to put information before you today, and then
once you have heard that information, you could consider how you should act and -- and we would appreciate that opportunity. We didn't know until, frankly, this morning for sure, but we had a hint yesterday afternoon, that we would be allowed to make a presentation during this agenda item, and not being limited to public comment. And so we're here and we would like you to hear the information that -- that we think is very relevant and material to this issue.

CHAIRMAN JOHNSON: Absolutely.

MS. GRANIER: Okay.

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

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

And our understanding is, we are here because of our four-year cohort graduation rate. And we want to make sure that we don't just make excuses and get anecdotal
stories about all the kids we serve, but we want to make sure that that one data point is something that we use as a large suite of data, of different data points and metrics that we can look at. And we know we can improve, but we don't think issuing a notice of closure is the way to drive us to improve, especially on this one data point.

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

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

And you heard that a lot this morning.

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

However, if we look at our graduate -- graduating class last year, 2015, we examined the characteristics of them, and we found that 90 percent of them were on track
when they enrolled, of the ones that graduated; ten percent were off track when they enrolled, but were successful in graduating on time through the efforts of our school. For students who come to us on track there is a very good chance they’ll graduate on time, even using the current calculation.

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

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

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

MEMBER WAHL: Sorry to interrupt your flow.

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

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

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

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

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

We looked at our data from 2015. There were 14 students that were counted in our cohort as being
dropouts, that are also currently enrolled in post-secondary institutions. I'm sorry. Twelve are in four-year colleges, and two are in two-year colleges. And we pulled that data from the National Student Clearing House. So even though they're dropouts, somehow they're at college. I really question how valid that is.

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

CHAIRMAN JOHNSON: Yes.

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

MR. WERLEIN: Please.

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

MR. WERLEIN: Quite honestly, there's -- because of our transiency, we have a lot of students that when they -- they drop out, we do everything in our power to request records and to ascertain where they are. It can be a very lengthy, six-, seven-, eight-, nine-step process. And we're able to track where most of them are, but there are some that, quite honestly, we cannot locate. So we do everything in our power, but then we have things
like this pop up, where they're -- obviously went
somewhere, either out of state, or however they got there,
but they get through a post-secondary level.

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

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

MEMBER MCCORD: Well, Madam -- or Mr. Chairman,
let me go back, then, a couple of slides. You have the
number of credits deficient increasing, where we're
drilling down on the data at the request of your counsel.
Let's look at that for a minute.
It says the number of credits deficient increase from grade level to grade level, if you would.

Seventy-five percent are off track. For ninth grade you say -- you say 1.5. I assume that's a mean of 1.5 across the entire end, so that there was a range of that, some of which would have zero, some of which would have maybe more than -- well, could have six.

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

MR. WERLEIN: And I appreciate that suggestion.

Thank you.

MR. GAVIN: If I might echo that? Patrick Gavin for the record. I think what would be particularly informative and responsive to Member McCord's request -- and I think it would help inform the deliberations of the board with relation to this -- would be actually quantifying the "N" of kids who are at each level of credits earned. So number of kids who are one credit, two credits, et cetera, at each level of the cohort. Because there is a -- there can be a perception that we are lumping in the kids who are one credit off from the seven
max that might be earned in a year, when in fact that child actually is ahead of where they are to be technically on grade level. Because a student that actually passes every class and sits in every section actually has a heck of a lot more credits than are actually required to graduate. So I just think it's really critical from a definitional perspective that the school provide very clear data on this.

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

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

MEMBER CONABOY: Mr. Chair?

CHAIRMAN JOHNSON: Yes, Member Conaboy.

MEMBER CONABOY: I think the executive chair
director is confirming counsel's argument that these conversations ought to take place. A healthy discussion about what will and will not be considered, and in what format, certainly would inform our process much better.

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

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

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

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

MS. GRANIER: Yes, I have, Member McCord. And I -- so my point, though, with respect to the third-party validation is, that certainly is something to be discussed. And there's no problem sharing the information, absolutely.
My question would be: How can an agency rely on one set of data that is validated by the Nevada Department of Education to close a school, and then ask -- and then say they can't rely on different calculations or explanations of the number based on that same data that is validated by NDE, that it has to be validated by a third party? I don't -- I don't -- I see a fundamental flaw in that process, that the State can rely on information for closure, but the school can't rely on the same NDE-validated information to oppose closure and say that, you know, "You are looking at these numbers. When you talk about lumping numbers together, you are only looking at a four-year cohort number." You know, a number that doesn't hit 60 percent because of credit-deficient students.

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

MR. GAVIN: Ms. Granier, I just want to ask a clarifying question. So you've noted that -- that the
Authority does -- and it is true, the Authority uses data that is reported by the department, and then has been validated by the department. So there is a -- there is a cohort graduation rate which has been calculated by the department and is published.

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

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

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

MR. WERLEIN: For -- Steve Werlein for the record -- for example, we use Big Horn to look at our total cohort groups when they come in. And that's readily available. That's what the State, the NVDOE uses, as well.
MR. GAVIN: But, again, is there an actual analysis, as produced by an objective third party, such as the department which actually validates this interpretation of the data, that says, "Yes, 79 percent of students are" -- "did persist"? That says whether -- you know, whether -- what percentage of students are on track at each -- you know one, two, three, four, five, six, seven credits, whatever it might be?

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

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

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

Students that entered our school in ninth grade and stayed for four years had a 79 percent -- 79 percent
of them graduated on time. Seventy-seven percent of
full-year twelfth-grade students last year -- which means
they enrolled by October 1st and stayed enrolled through
graduation -- actually graduated. That does include some
summer-school graduates.

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

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

When there's a typical accountability framework,
they usually apply very well -- or can apply very well to
traditional-zoned schools, where students are enrolled for
multiple years. The majority of kids usually stay in the same system from elementary, middle, and high school. You see them move across town, but they stay within the same system. So when there is low mobility, using metrics like that, and proficiency scores perhaps, can be very fair reflections of how the school is performing.

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

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

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

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

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

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

MR. GAVIN: May I ask a clarifying question?

MR. WERLEIN: Absolutely.

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

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

So my -- I guess my big question is: What, if any, data points do you have -- and we can talk about the validation piece later, of course -- but what data points do you have that says that -- that demonstrate clearly and convincingly that Nevada Connections' transiency -- these -- these -- these extra analyses that you've raised, are materially different than for the other low-performing elementary, middle, and high schools that are on the
State's low -- low -- low-performing schools list? The 78 of which are -- traditional public schools are -- are eligible for inclusion in the Achievement School District, which is a dramatic turnaround intervention, including massive structural changes with governance and operation. Based on the -- based on the data points that we have validated, you know, were Nevada Connections a traditional public school, it would be eligible for the ASD. We are -- so I -- what --

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

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

So I think it would be useful if there is any way
of actually defining that -- and I think where I am at a loss is, I'm not aware of any objective data source that allows us to say anything other than -- to swim in the world of anecdote one more -- or unverified stories between schools, where it's like, "Okay. Coronado High School is this. Hug High School is this. Nevada Connections High School is this."

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

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

MS. GRANIER: For the record, Laura Granier. And
I don't mean to interrupt, but I do want to address a couple of points there. One is, I think we have no problem with that, and we want to present good information. We think this board is legally obligated to make decisions based on substantial evidence that are not arbitrary and capricious.

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

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

Our point is that the mobility factor affects this four-year cohort graduation rate. When we get a student who came to us 14 days before graduation -- or we had six of them for less than half a year -- what we're saying to you is, you've got to -- you've got to figure that we -- that is going to hurt our four-year cohort
graduation rate, because it is impossible to graduate that student. And so the point is: How do you look at that four-year?

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

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

Now, with respect to these students, we're happy to serve them. And what we want to do is work with you. You know, you were -- you were given discretion by the legislature to consider a notice of closure based on this 60 percent graduation rate. The legislature considered -- and it was in one of the drafts of the bill -- making it a mandatory trigger, and they took it out. They put it in the discretionary provision.
And the testimony presented to the legislatures from -- as a representation from this Authority was that, of course we want to make judicial -- judicious and thoughtful decisions, and we will look at compelling evidence. And that is how you do it without abusing the discretion you have been given.

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

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

MR. WERLEIN: I'm not going to spend too much
more time on that. But we did look at last year's graduating class. And if we were to use the ESSA calculations this year, our 2000 -- I'm sorry -- our 2015 cohort rate was 36 percent. If we were to use the ESSA as it stands, with a 50 percent cutoff -- meaning, the student's with us for half a year -- that would be 44 percent. If we looked at 75 percent, which some states are doing, we would be looking at a 48 percent.

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

And I -- my colleague earlier this morning talked about some of these other points, but I just really think that it's important that as a board you understand, we have every desire to collaborate, to improve, to take suggestions. We take them to heart. We take them seriously. As a school, as an organization, as an administration, we want to improve. We want to listen. We want feedback. We want constructive criticism. We
want to move forward. But we also want to bear in mind that there should be multiple measures of evaluating a school like ours, that has a four-star middle school, that has an elementary school that was approaching three stars, which we know we can improve. But items like that. The growth that our students can display, and have displayed. We really want all of those to be considered. And again, as a school leader my job is to not make excuses, it's to come up with solutions. And I really look forward to working with the Authority. I'm hoping we're not issued a notice of closure, because I -- like I said, I look forward to working for the -- with the Authority staff and helping our school improve. Thank you.

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

MEMBER MCCORD: Mr. Chairman.

I'm -- you may find this hard to believe. I'm sympathetic with your -- what you're saying in a lot of respects. One of the -- one of the persistent problems that I face -- and I mean this as constructive, not critical. Okay? I mean it as constructive. Oftentimes when we work with challenging populations -- and I'm familiar with that. I had the highest -- or the lowest socioeconomic school in Clark County, and I was the
principal of it. Okay? A wonderful place, wonderful place. But you can describe the children all day long.

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

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

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

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

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

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

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

MS. GRANIER: Chair Johnson, I apologize. I actually had a presentation, but I felt like you should hear from the principal and hear from a lawyer, as always,
as a last resort, so --

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

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

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

MEMBER CONABOY: Thank you.

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

MEMBER WAHL: (Inaudible.)

CHAIRMAN JOHNSON: Member Wahl.

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

If I was a school leader and my graduation rates were not what the State expects, I would start making an
immediate difference. And then when the other shoe drops -- which is now -- I would have sufficient stuff to show you: "Look. Here's what we're doing." I don't want us to be in a situation where the Notice of Closure is, "Ah, I never saw this coming." And that's not what -- you should have seen it coming.

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

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

MEMBER MACKEDON: I have one question.

CHAIRMAN JOHNSON: Go ahead.

MEMBER MACKEDON: Patrick, correct me if I'm wrong. Doesn't our performance framework actually call for a comparison of schools? I mean, isn't that what our performance framework does, is it takes students and says, "If this student was at their home's own school, this is
the" -- I mean, I know it does that for the elementary and
the middle school. It says, "This would be their" -- you
know, "the median growth percentile at that school. This
would be the proficiency rate at that school."

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

MR. GAVIN: Patrick Gavin for the record.

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

MEMBER MACKEDON: Um-hum.

MR. GAVIN: -- petitioned the board for an
amendment, which has been approved by the board to change
that performance framework, does not have that comparison.
And that was -- and keeping in mind that the performance
framework was developed in a consultative process prior to
my joining the Authority by the previous director and --
and former staff in consultation with schools. I believe
that was an area where there was concern about the lack of
comparability. The particular -- and in particular, if
I'm recalling -- if I recall the statute, the statutory
provision, it specifically talks about student growth
comparisons. So there is no -- there is currently no
student growth comparison for high school that -- that
works statewide.
We as an Authority, as we roll out ACTS, aspire, will have a growth metric that we will be able to utilize for schools across the -- across our portfolio, to make -- to make some degree of comparative -- to look at that growth piece and look at it comparatively. But it's not something that is -- that is in the framework now.

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

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

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

We look very carefully at where each student is when they enter our school, or if they are a returning
student, where they are, and we literally individualize a tiered plan for them.

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

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

Those are the programs that I think, just by the end of this year, there are going to be results. We are going to see an improvement. And I think as we refine those processes -- we know we are going to continue to get students late in the year from other schools for a variety of reasons, and we don't want to make excuses for that. It's just a matter of reality. It's going to happen. But by keeping these things in place that we're doing, and
improving them and refining them and enhancing them, we
will see continued improvement. But we will see it this
year, as well.

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

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

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

To respond to Member Wahl's question -- I think
our principal responded to you, as well -- but the school
has absolutely been looking at that and working on things.
And, in fact, we came -- we participated in the last legislative session when SB509 was being considered, because we said -- we told legislatures, just as we are telling you -- it is going to be a significant problem if you -- if you start closing schools based on this single data point. And, again, that took us back to, that's why it became discretionary. And the promise was made that it would be based on compelling evidence, not on a single data point. So there has to be that opportunity.

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

So we followed up in September, as you heard from our board chair -- our board president this morning. She
unfortunately had other business because we didn't think we would get a chance to speak on Agenda Item 6. We thought we would be limited to public comment.

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

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

And we talked about, you know, we've got a process in place to try to find those students. We don't always find them. And when we don't find them, they count
against our four-year cohort graduation rate.

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

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

So we did take action, affirmative action, to go and ask, "How do we work with you to make sure that we don't have to be before the board on a notice of closure?"

And we were told, "There's time." And the next communication we got on the issue was the public agenda in February. So there's got to be a process, and this board should make sure that there is a process.

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

You've heard people talk about different graduation rates. You've heard about the flexible graduation rate and how you're accounting for this
information. And so if you are going to not consider other evidence before you issue a notice of intent to close based on this sole data point, the least you should do is understand the students behind that data point, if you're not going to look at mobility rates and other issues. So I think there should be a regulatory process to define that.

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

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

MR. GAVIN: Ms. Granier, may I just ask -- I want to confirm something with counsel, if you will allow me? Mr. Ott, can you confirm, is there a regulation in place that specifies the requirements for notices of closure and -- and for -- and for hearings?

MR. OTT: Are you talking about a hearing prior
to a notice of closure?

MR. GAVIN: I am specifically asking, is there a current -- number one, is there currently a regulation on the books which applies to the Authority as a sponsor, which addresses the issue of whether a charter -- of how a sponsor is to conduct the process of either revoking a written charter or terminating a charter contract?

Specifically, I am asking you to report to the board, what is the content of NAC 386.330.

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

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

"NAC 386.330 is hereby amended to read as follows: If the sponsor of a charter tool" -- "charter
school intends to revoke the written charter or terminate
the charter contract as applicable pursuant to
NRS 386.3" -- ".535, the sponsor shall notify the
governing body of the charter school pursuant to
Subsection 2 of NRS 386.535 by certified mail."

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

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

I sympathize with the school's point that it
would be nice to have a requirement that staff have a
separate conversation with schools beforehand. I would --
I would submit it would be nice if there was a -- if there
was -- if there was some mechanism in place to do the kind
of in-depth data analysis of -- of non- -- of data that is
not reported by State or some other entity. Neither of
those things exist at this time. I just -- I wish to be
clear that the Authority -- that this is not an attempt at
ad hoc rule making.

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

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

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

CHAIRMAN JOHNSON: Member Wahl.

MEMBER WAHL: Member Wahl. I'm sorry. Mrs. --
MEMBER WAHL: -- Granier. So earlier in the day, in another school's discussion, we had two attorneys agree on what a defined graduation rate was.

(Inaudible.)

MEMBER WAHL: I know. Our own -- well, not our -- Patrick's DAG, and then Silver State's attorney. Both agreed that a definition of a graduation rate is that which is published by the NDE. That's the -- that's one basic that two lawyers agreed on today. So you can disagree on that if you want to.

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

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

MR. GAVIN: May I -- may I address that representation, please?
Ms. Granier, I am reviewing the -- my testimony. And to be clear, this was -- so this -- so the sequence of events here was, this was the hearing before Assembly Education of SB509. There was voluminous public comments. Ms. Granier was one of the individuals who provided comments in neutral. Ms. Granier made a -- made some representations, which I will quote.

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

Okay. Now I am going to move down to my rebuttal comments at the -- afterwards. So following the end of public comments I was asked to come up. And here -- here's the entirety of my statements, versus the pieces
that were cited in -- and it is your role to build as
strong a case as possible for -- for your client. So I --
but I just wish to put -- make sure the entire piece of
the -- the entire -- the entirety of the information is on
the record.

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

"I want to thank this body for your indulgence in
this conversation. I appreciate the thoughtful questions
and feedback. We think this is a really strong bill. I
want to emphasize that Senate Bill 460 deals with the
question of how to hold a school that is serving a large
alternative population accountable. We have taken pains
to work with the sponsor of that bill, Senator Harris,
Chair of the Senate Committee on Education, to ensure that
these elements are aligned. To the degree that we did
have a school that was serving an alternative population,
that the" -- "so that they would not be subject to an
arbitrary catch-22 situation. We do not want to do that;
we want to make sure that we are making thoughtful and
judicious decisions. To that end, we have also endeavored
to make sure that anything above that 'three strikes and
you are out' level is discretionary on the part of the
Authority or sponsor board so that we can take into account those kinds of nuances. I would submit, however, that in cases where a school has a 27 or a 37 percent graduation rate and is not classified as an alternative school, that is the kind of thing we would all agree is not acceptable, and that we need to ensure that we are looking very carefully at why that is and if there is some kind of compelling explanation, certainly taking into account, but also holding any school that is at that level accountable."

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

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

(Background noise.)

A VOICE: Hello?

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

One year later in 2012 --

MEMBER CONABOY: Excuse me, Patrick.
Mr. Chair, do we know what's going on? I can't listen to two things at once.

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

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

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

It sounds like she may have. Thank you.

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

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

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

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

DR. SANCHEZ: Thank you.

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

Nevada Connections Academy in 2013-14 was at
33.91 percent, and was in the 10th percent -- which made it the 11th lowest school in the state, and in the 10th percentile statewide.

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

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

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

So I just want to make sure that's on the record, what our -- certainly what my intention was, in particularly stating that Nevada Connections Academy does
not have a mission to serve alternative students. It does not have a -- it does not have an alternative population that, based on the school's representations to us, at least at this point, would meet the threshold for the alt framework.

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

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

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

CHAIRMAN JOHNSON: Member Wahl.

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

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

MR. MCGAW: It is certainly within your
discretion. Ed McGaw for the record. But I believe it is within your discretion, but --

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

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

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

   CHAIRMAN JOHNSON: Ms. Granier.

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

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

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

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

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

And given that you had all of that data in September, and -- and I do not recall, and I'll ask our board president and our principal to put on the record -- I do not recall any discussion of significant changes at that meeting. That's what we asked for the meeting for,
was so that we could have that conversation, and the conversation didn't happen because we were told, "We have bigger fish to fry." So that's the -- the response to that.

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

With respect to two attorneys agreeing to what "graduation rate" means, two attorneys do not represent everyone. And two attorneys can't replace rule making for this body. And those two attorneys were making statements with respect to a negotiated settlement with this agency. So they're -- I respectfully submit, that doesn't mean that the -- that the definition of "graduation rate" for
purpose of this statute is by any means settled.

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

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

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

So I just wanted to clear up those few points, and I do know our board president is under time constraints. And I'm so appreciative she called in, because she is so committed to this school, so -- so we'll
shoot her a text so that she knows she can speak now.

DR. SANCHEZ: Can everybody hear me?

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

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

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

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

Again, it brings the concern of having this notice of closure supposedly being an ultimatum or a final opportunity to provide information, when there has never been one opportunity to provide that information, which Ms. Granier has pointed out on various incidents today.

And I echo all of that. And I echo everything that has
been said of virtual schools overall.

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

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

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

And further notice. I also wanted to point out
that another board member asked information and said, 
clarify, "Please clarify if I'm wrong about the Nevada 
school performance framework."

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

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

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

However, I would like to question how many have 
joined -- excuse me -- how many have joined the live Life
Center? How many have come to this school to see the teachers and to meet -- to be able to know this information? All the questions that have been asked today are questions that could already be known with engagement, with dialogue, with open, transparent communication. That, again, has not been afforded to us -- has not been afforded to me.

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

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

I would like to see a system perspective where it's not one data point, where it's not one individual set, with not one snapshot, but rather, it's something that is holistic, that's proactive, that can make an
impact and that can really lead to logical means of improvement throughout. We have the opportunity. We have the capability. We have a very diverse board.

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

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

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

CHAIRMAN JOHNSON: Thank you, Dr. Sanchez. This
is --

A VOICE: Chairman Johnson?

DR. SANCHEZ: (Inaudible) questions of me?

CHAIRMAN JOHNSON: Are there any questions of her?

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

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

CHAIRMAN JOHNSON: You're welcome.

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

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

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

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

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

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

This issue came up in the last legislative session. We actively participated. And there is a significant legal question as to whether it can be applied the way it is being suggested to you, in this manner, in a retroactive way, where a school has a charter in effect, based on old data -- a graduation rate from 2015 that was completed also before this statute came into effect --
without so much as considering the information behind those numbers that we're trying to present to you, having a meeting to hear what the school is doing and providing an opportunity to look at the meaningful data.

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

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

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

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

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

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

There's further retroactive problems here. And
in the backup materials there's discussion of Nevada freezing the current list of priority schools as of December 10, 2015. So there will be -- you know, there's a suggestion that those schools will be frozen as of -- if they were considered a priority school, on December 10, 2015. They are frozen there, and they will continue to implement their interventions for 2015-16, and '16-'17.

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

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

We had no discussion. We had no notice. We have no information, other than what is in the backup materials that were provided to the public. And those backup materials -- and actually strike that -- that statute
makes reference to performance issues, "being unsatisfactory as determined by the Department of Education pursuant to criteria prescribed by regulation by the department to measure the performance of any public school."

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

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

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

As we've made reference earlier, and you've now heard in detail, there was a lot of talk about this at the legislature. Director Gavin has given you his testimony. This issue also came up, though, in the context of SB461, which was Senate Education Committee Chair Becky Harris's
bill to try to create individualized education plans for students to graduate, for these credit-deficient kids so that they would have an individualized plan to get them on track, which is frankly, I think something Connections has done for many years. So we collaborated with her, and we were thrilled to see it. And we raised this issue, I think, for the first time in the context of that hearing. That discussion spilled over into SB460, and then also SB509. And the reason is, there's a -- there's a closure provision under SB460 and, of course, the closure provisions under SB509. And so we continued to have this dialogue about schools being concerned about closing them based on a single four-year cohort graduation rate. And the response when she raised that issue in a hearing -- and I included this in the letter that we've provided you -- on Senate Bill 460, and she said, "We are going to hear from many charter schools today that are coming to us with concerns about being closed down based on this single data point."

And Dr. Canavero's response to that was, "We can have a flexible graduation rate if we need to." And our discussions with him at the time, in good faith, were, "We don't need new statutory language to address this policy issue that the legislators were so clearly concerned about" -- and that is, being punitive to schools for
serving these credit-deficient students -- "we can address it under existing law."

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

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

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

And that's all we're asking for. We're not
hiding from accountability and we're not hiding from transparency. We just ask you to work with us the same — and direct your staff to work with us, just as the legislature directed you to do in the very provisions of that statute.

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

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

You don't have any information -- compelling evidence? What is compelling evidence? That is having a meaning behind that data point you're considering. Do you know what kids are behind that number? Do you know what students and their circumstances make up the students that are missing from that number, those non-graduates? Did you know before I just told you, and our principal just told you, that 74 percent of those students, those
non-graduate students, came to us credit deficient?

That's compelling evidence. That's the information you need to consider.

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

There's a -- I think there's a question here and there's some confusion, as well. The 60 percent graduation rate trigger applies to a high school. We are a K-through-12 school. We have one charter for 12 grades. This body and the Authority has not approached us about amending our charter or splitting off our high school. So I am -- I think there's another procedural issue here.

You don't just skip a step. There certainly isn't authority to shut down the entire school. It is solely related to the high school. And we are a K-through-12 school.

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

In order to issue this notice of closure you're going to make a determination that there's a deficiency
here. You're going to make a finding that -- that it is reasonable, and you have substantial evidence to support you exercising your discretion to issue the notice of intent to close. And that triggers due process requirements and it triggers a requirement that there be an opportunity for meaningful evidence to be provided and considered.

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

And we have the citation. We've included that discussion for you in the letter under the ESSA. But it is mandatory that a student that is with a school less than 50 percent of the school year will not be counted against that new school's graduation rate. It will be attributable to the school that was left. And we can certainly provide you the citation. There is no -- there
is no wiggle room there. There is no discretion. States can go higher than that and go up to, I think, as high as 90 percent, reflecting good policy.

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

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

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

There's obviously a notice issue there. We can't respond to it. We got it late yesterday. There is no identification of the regulation, there is no ability for us to try to even present you evidence or information on
that issue. That issue -- that -- that -- what we do know about that is, it makes reference to us being a priority school, identified by the department in 2015, June of 2015, I believe.

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

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

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

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

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

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

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

CHAIRMAN JOHNSON: Member Wahl?

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

MS. GRANIER: No, Member --

MEMBER WAHL: Because that's what I'm hearing.
MS. GRANIER: No, Member Wahl, not at all. Thank you for the question. For the record, Laura Granier.

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

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

Deputy Attorney General Ott.

MR. OTT: Deputy Attorney General Greg Ott.

Thank you, Chair Johnson.

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

But Ms. Granier raised a couple of questions, and I was taking notes. Because we've had some discussions about some issues, but I'm learning of some things, so I just want to be clear so that we can have further legal discussions while the educators have education discussions.
You believe that the graduation rate in SB509, that reference is not clear? Is that true?

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

MR. OTT: Okay. And I apologize for my lack of knowledge of the legislative procedure. Clearly you and Director Gavin were in many hearings, while I was not. Was there -- is there any testimony about a request for clarification from the legislature as to SB509's graduation rate? I mean, if it was unclear, I would think that someone would have brought it up to the legislature, since they were having closure be based on something that the school doesn't understand.

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

But in addition to that, I think it was, again,
in the context of being considered with compelling
evidence, with evidence as to what information is behind
that singular number.

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

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

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

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

Your -- your contention today that this, in fact,
is a contested case would in fact require another notice initially. Would that pre--prior notice to this notice also be a contested case?

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

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

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

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

MR. OTT: One final clarification. Deputy
Attorney General Greg Ott.

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

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

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

So it's got to take evidence. There's got to be
fair notice and opportunity for the school to understand
what the basis is of the closure, and come forward and
present evidence and information so it can be heard,
before the board makes a finding, that must be based on
substantial evidence, as to whether or not that deficiency
exists to issue the notice of intent to close.

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

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

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

I know that a lot of parents showed up here
saying that there was going to be a vote to close the
school. I don't want them laboring under the misimpression. So I hopefully -- I tried to clarify that with my prior comments at Silver State, and hopefully have done a little bit more today to -- to ease some of that concern. I know it's not all alleviated.

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

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

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

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

I think it's only common sense, as mom would say, to give the schools prior notice and to sit down and talk
with them. And 99.9 percent of the discussion that's being had here today could have and should have been had before this issue even found its way to the agenda, from my perspective.

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

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

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

Director Gavin?

MR. GAVIN: Mr. Chairman, I am appreciative of one or -- of many of Ms. Granier's comments. But if there is some particular concern about one of the justifications for one element of the -- of the backup, I would request
that, at the very least, that the Board take a "yes" vote off the table while we can go back and make sure that that is -- that that is addressed. I would not wish to -- to undermine the effectiveness of a "yes" vote or the -- or -- and I realize I'm -- I'm losing my words, as it's 3:20 in the afternoon and we only have about 40 minutes left before we have to evacuate this room.

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

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

MS. GRANIER: Granier.

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

MEMBER WAHL: Can I ask a clarifying question?

CHAIRMAN JOHNSON: Yes, Member Wahl.

MEMBER WAHL: So point of clarification. So, Patrick, your contention is that that one issue that was brought up -- nothing to do with all the graduation rates,
but the other thing that you referenced in them that they weren't prepared for, that's the reason why you would have us have a continuance?

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

MEMBER WAHL: Um-hum.

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

MEMBER WAHL: Um-hum.

MR. GAVIN: Our intent here is to get the schools to come to the table, to work through solutions, as was -- as -- as we believe the statute was designed to do. And -- and so we -- I would respectfully request that you either say "no" completely. Or whether you continue the item, and should it come back at a later date, we will, of course, make sure that if there is any -- if there's any
language change that needs to be made based on consultation with counsel, that we do so.

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

CHAIRMAN JOHNSON: Member Conaboy?

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

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

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

I think with the continuance it allows you to
revisit this issue. If you do vote "no," and you do have intentions that, if the talks break down and there is substantial evidence to warrant visiting this issue again, I'd recommend that the "no" vote be qualified with the idea that you could come back, based on whatever these talks are, and revisit the issue of whether to issue the notice of intent. Just to clarify the record, that a "no" vote isn't saying, "We're not going to revisit this issue."

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

Does that answer your question?

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

What if we just decided that under 233b we need to have regs so that the schools know the rules? So we've got to take an eight-, six-, two-, four-, three-week or a month or a year hiatus -- however long people think it
will take to get regs in place -- get our house in order, have a process that people understand, and participate with this board in bringing to fruition?

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

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

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

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

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

If that -- I hope I answered your question a
little better?

CHAIRMAN JOHNSON: Member Wahl.

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

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

CHAIRMAN JOHNSON: However, in relation to the -- the item that we have today, I think we do need to have some sort of closure on the item itself to determine how we are going to move forward. And so we could either, as Mr. McGaw says, we could either vote "no" with some qualification, or we can ask for a continuance of this, which Director Gavin gave earlier. Either of which, I
assume, means that we are not going to be issuing that notice of closure today. But it determines what the pro -- what the steps will be in the very near future to ensure that Director Gavin and the schools are working together.

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

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

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

CHAIRMAN JOHNSON: Yes.

MS. GRANIER: I know you're deliberating. I just want to address Member Wahl. We hear you. And we are concerned. And we take that graduation rate and the statutes very seriously, which is why we were, like I said, at the legislature talking to Director Gavin.
We want to work with you. We want to work with your staff. We are here to -- to try to talk through this and reach a reasonable end.

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

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

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

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

This is a structural challenge in a -- I mean, we have a -- we have education committees in both houses of
the legislature. Every two years there are significant policy changes. If we're going to be in a position where, essentially, those policy decisions always neuter this body's ability to do anything, then that's a problem.

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

CHAIRMAN JOHNSON: Thank you, Director Gavin.

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

MEMBER WAHL: I'll make the motion.

CHAIRMAN JOHNSON: Member Wahl.

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

CHAIRMAN JOHNSON: Do I have a second of Member Wahl's motion?
MEMBER ABELMAN: This is Member Abelman. I would second that motion.

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

Member McCord?

MEMBER MCCORD: No.

CHAIRMAN JOHNSON: Member Conaboy.

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

CHAIRMAN JOHNSON: Member Mackedon? Vice chair Mackedon?

MEMBER MACKEDON: Yes. I agree with the continuance.

CHAIRMAN JOHNSON: Member Luna?

MEMBER LUNA: No.

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

MEMBER ABELMAN: Member Abelman.

CHAIRMAN JOHNSON: Member Abelman?

MEMBER ABELMAN: Yes. Yes.

MEMBER WAHL: And Member Wahl, yes. That was three yeses to two nos.
(Inaudible.)

CHAIRMAN JOHNSON: Then I -- I will vote.
I'm actually going to vote "no" on that, as well.

I think it's -- so --

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

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

One abstained.

(Inaudible.)

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

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

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

CHAIRMAN JOHNSON: The a motion for continuance is --

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

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

CHAIRMAN JOHNSON: So is there a better motion that can come to the floor than --
MEMBER WAHL: Then we take no action.

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

CHAIRMAN JOHNSON: Yes, Member Conaboy.

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

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

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

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

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

Member McCord?

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

By taking a "no" vote on this at this point -- in
other words, taking no action on that -- it dies for no action; correct?

   MR. MCGAW: I believe it's still on the agenda.

So something has to be done to dispose of the matter.

Maybe my colleague could correct me on that.

   MR. OTT: Deputy Attorney General Greg Ott.

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

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

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

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

   MR. GAVIN: May we clarify?

   CHAIRMAN JOHNSON: Just a second, Director Gavin.

   MR. GAVIN: Sorry.

   CHAIRMAN JOHNSON: If -- Mr. McGaw, if we -- could we still give directive to staff to begin to have
conversations around working with the school? Again, that is the one thing we actually all agreed upon is that we wanted to make sure that these conversations were being had, and they were more robust. I don't think we've agreed upon what the next best step is.

That was -- that was directed to you --

MR. MCGAW: I'm sorry.

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

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

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

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

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

MR. GAVIN: Thank you, Mr. Chairman.

My primary question was actually not about this whole directing of staff thing, but specifically about making sure that by saying that we're taking -- that if the Board is saying -- the question is: Do you wish to
take no action on this agenda item in its entirety, or
simply this -- the elements related to Nevada Connections
Academy? I wish to just be very clear.

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

CHAIRMAN JOHNSON: Member Conaboy?

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

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

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

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

MEMBER CONABOY: Okay.

CHAIRMAN JOHNSON: Vice-Chair Mackedon?

MEMBER MACKEDON: Member Mackedon. I feel like
we are going to have this same conversation two more times, so I would make a motion to postpone the entirety of Agenda Item 6 until --

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

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

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

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

So I think May is the most appropriate timeline,
just given everything that we have to do. But that said,
what is discomforting about that is that this creates yet
more uncertainty for parents. And that is something that
I think is a -- is a very tough thing.

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

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

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

That is a tension between the experience of the
satisfied customers who are getting what they asked for,
versus the ones who are not getting what they asked for,
or not -- or where the State is not getting what it asked for. And that is an important issue.

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

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

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

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

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

MEMBER MCCORD: It certainly is, sir.

CHAIRMAN JOHNSON: All right.

MEMBER MACKEDON: Member Mackedon. Second.

CHAIRMAN JOHNSON: So all in favor of pulling this?

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

MEMBER MCCORD: I assume so, yes.

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

Member -- Member Mackedon, you seconded that?

MEMBER MACKEDON: Um-hum.

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

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

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

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

MS. GRANIER: Yes, Member McCord.

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

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

MEMBER MCCORD: Yes.

CHAIRMAN JOHNSON: Member Conaboy?

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

CHAIRMAN JOHNSON: Member Mackedon?

MEMBER MACKEDON: Yes.

A VOICE: Who was the second?

CHAIRMAN JOHNSON: Member Wahl?

A VOICE: Mr. Chairman, did somebody second this
CHAIRMAN JOHNSON: Member Mackedon.
A VOICE: My apologies. I just --
CHAIRMAN JOHNSON: Member Wahl?
MEMBER WAHL: I'm a no.
CHAIRMAN JOHNSON: Member Luna?
MEMBER LUNA: Yes.
CHAIRMAN JOHNSON: Member Abelman by telephone?
Member Abelman, are you still with us?
Member Abelman, last chance.
Danny, did you have anybody hang up on the line there?
MR. PELTIER: Not that I know of. And I have no messages from Member Abelman saying he was disconnected.
CHAIRMAN JOHNSON: I'll cast my vote. I'm a yes on that. So I vote to pull this item from the agenda with no -- with no stated date.
MR. PELTIER: Chairman Johnson, for the record --
CHAIRMAN JOHNSON: Member Abelman?
MR. PELTIER: -- Member Wahl's microphone I don't believe was on for her vote. What was her vote?
MEMBER WAHL: Member Wahl was a no.
CHAIRMAN JOHNSON: Member Abelman, are you there now?
At this point we have four yeses, one no, one abstain, and one no -- one non-vote.
I think he's going to join. I don't think we can take his vote by text, however.

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

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

All right. We'll -- thank you.

(End of Partial Transcript - Agenda Item No. 6)
STATE OF NEVADA )
     ) ss.
COUNTY OF WASHOE )

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

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

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

______________________________
MARIAN S. BROWN PAVA, CCR #169, RPR, CSR #4525