IN THE OFFICE OF ADMINISTRATIVE HEARINGS

FOUNDING FATHERS ACADEMIES, INC., a non-profit corporation, operating JEFFERSON ACADEMY OF ADVANCED LEARNING, a charter school	**No. 14F-FSRV-002-BCS** **ADMINISTRATIVE LAW JUDGE DECISION**

HEARING: March 26, 2014, March 27, 2014, March 28, 2014, and May 16, 2014

APPEARANCES: Founding Fathers Academies, Inc. was represented by Leonidas G. Condos and Kathleen Stillman. The Arizona State Board for Charter Schools was represented by Assistant Attorney General Kim S. Anderson.

ADMINISTRATIVE LAW JUDGE: Tammy L. Eigenheer

FINDINGS OF FACT

1. Charter schools were established under A.R.S. § 15-181 *et seq.* to provide a learning environment that will improve pupil achievement, to provide additional academic choices for parents and pupils and to serve as alternatives to traditional public schools.

2. Jefferson Academy of Advanced Learning ("the School") is a charter school authorized to operate under the sponsorship of the Arizona State Board for Charter Schools ("Board"). The School operates pursuant to a charter contract between Founding Fathers Academies, Inc., a non-profit corporation ("Founding Fathers") and the Board.[1]

3. Sandy Stewart is the Charter Representative and person authorized to act on behalf of Founding Fathers and ensure compliance and accountability with regard to the operations of the School.[2]

4. The School began operating in 2003 and it is currently authorized to

[1] Testimony of DeAnna Rowe ("Rowe") at Transcript of Record of March 26, 2014 ("TR 1") at 25:11-15.
[2] Rowe, TR 1 at 25:20-26:9.

serve students in grades K-12.[3]

5. The School is located in Show Low, Arizona and currently reports an average daily membership of approximately 150 students.[4]

The Arizona Department of Education's Achievement Profile

6. The Arizona Department of Education ("Department") annually compiles achievement profiles that use letter grades for all Arizona charter schools and school districts.[5]

7. The Department's assignment of an achievement profile is based, in part, upon academic progress measured by students' performance on standardized State testing.[6]

8. A school can earn a letter grade of A, B, C, D, or F.[7] A letter grade of D demonstrates a below average level of performance by a school.[8] Schools that receive a D letter grade for three years in a row may be assigned a letter grade of F, demonstrating a failing level of performance.[9]

9. Prior to the adoption of letter grades, the Department assigned descriptive ratings ("legacy labels") of excelling, highly performing, performing, underperforming, or failing to meet standards.[10]

10. In the Fall of 2011, the School was assigned a legacy label of underperforming and a letter grade of D for the 2010-2011 school year.[11]

11. In the Fall of 2012, the School was assigned a letter grade of D for the 2011-2012 school year.[12]

12. In the Fall of 2013, the School was assigned a letter grade of F for the

---

[3] Rowe, TR 1 at 25:16-19; 26:14-15.
[4] Rowe, TR 1 at 26:16-21; Testimony of Sandy Stewart ("S. Stewart") at Transcript of Record of May 16, 2014 ("TR 4") at 960:15-18.
[5] Rowe, TR 1 at 26:22-27:1; 27:12-14; A.R.S. § 15-241(A).
[6] Rowe, TR 1 at 27:2-11; A.R.S. § 15-241(D).
[7] Rowe, TR 1 at 27:15-17; A.R.S. § 15-241(H).
[8] Rowe, TR 1 at 27:18-22; A.R.S. § 15-241(H)(4).
[9] Rowe, TR 1 at 29:6-20; A.R.S. § 15-241(O).
[10] Rowe, TR 1 at 27:23-28:5; A.R.S. § 15-241(H)(2010).
[11] Rowe, TR 1 at 28:13-21.
[12] Rowe, TR 1 at 28:22-29:5.

2012-2013 school year.[13]

13. In an email dated September 9, 2013, the Department informed the Board that the School had been assigned the F letter grade.[14]

14. Because the School had been assigned a letter grade of F, the Board was required to either take action to restore the School to acceptable performance or revoke the School's charter.[15]

15. In determining whether to restore the School to acceptable performance or revoke the School's charter, the Board grounded its actions in evidence of the School's letter grade of F and Founding Fathers' performance in accordance with the Board's academic performance framework.[16]

The Board's Academic Performance Framework

16. The Board has adopted an "academic performance framework" that defines its academic performance expectations for the charter schools it sponsors.[17] The Board determines whether a charter school is meeting these expectations by comparing the school's academic performance to the standards set out in the academic performance framework.[18]

17. The academic performance framework is organized by indicators, measures, metrics, and targets.[19] For each of the measures, targets establish the levels of performance needed to place each school into the following rating categories: exceeds standard, meets standard, does not meet standard, and falls far below standard.[20]

18. Each measure's rating is weighted for the calculation of an Overall Rating.[21] The Overall Rating categories are: exceeds standard, meets standard, does

[13] Rowe, TR 1 at 30:3-10.
[14] Rowe, TR 1 at 30:3-6; Exhibit 1B.
[15] Rowe, TR 1 at 29:21-30:2; A.R.S. § 15-241(U).
[16] Rowe, TR 1 at 30:11-19; 64:25-65:10; Exhibit 1A-H; A.R.S. § 15-183(R)(1).
[17] Rowe, TR 1 at 30:20-31:10; Exhibit 2; A.R.S. § 15-183(R)(1).
[18] Rowe, TR 1 at 31:15-21; Exhibit 2.
[19] Exhibit 2 at BCS107.
[20] Exhibit 2 at BCS110.
[21] Exhibit 2 at BCS107.

not meet standard, and falls far below standard.[22]

19. A charter holder that has one or more schools that did not receive an Overall Rating of "Meets Standard" or "Exceeds Standard" in the current and prior fiscal year that State assessment data is available does not meet the Board's academic performance expectations.[23]

Indicators of Academic Performance

20. As applicable to the School, the academic performance framework has four categories or indicators of performance: (1) Student Progress over Time (Growth), which measures how much students learn and improve over the course of a school year ; (2) Student Achievement (Proficiency), which considers the percentage of students meeting standards for proficiency on the Arizona Instrument to Measure Standards ("AIMS") state assessment; (3) the achievement profile letter grade assigned to the School by the Department; and (4) Post-Secondary Readiness, which currently considers the School's graduation rate.[24]

21. The Student Growth Percentile ("SGP") indicator measures: (1a) a school's median student growth over time for all students in AIMS math and reading ("SGP overall"); and (1b) a school's median student growth for its bottom (or lowest performing) 25% of its students in math and reading ("SGP Bottom 25%").[25] In both measures, SGP is evaluated separately for reading and math because these are the two content areas that are assessed statewide at all grade levels.[26] SGP calculates the progress of a school's students in comparison to his or her academic peers – students with similar performance on AIMS the previous year. Each individual student's growth in AIMS results is ranked against the growth for all students with the same test result in the previous year.[27]

22. The Proficiency indicator measures: (2a) a comparison of the percentage of a school's students who pass the AIMS assessment to the percentage who pass

[22] Exhibit 2 at BCS121.
[23] Exhibit 2 at BCS122.
[24] Exhibit 2 at BCS108-09; Rowe, TR 1 at 33:17-36:13.
[25] Exhibit 2 at BCS112-113; Rowe, TR 1 at 35:20-24.
[26] Rowe, TR 1 at 37:6-8.

statewide; (2b) a comparison of a school's students to a "composite" school that is "created" by aggregating data for students who share the same characteristics as those students in the school at issue; and (2c) a comparison of the percentage of a school's students in three subgroups who pass the AIMS assessment to the percentage who pass statewide in those three subgroups: students who qualify for a free or reduced-price lunch ("FRL"), English Language Learners ("ELL"),[28] and students with disabilities ("SPED").[29]

23. The Board's academic performance framework only uses full academic year ("FAY") students in its calculations.[30] A FAY student is one who enrolls in the school in the first ten days of the school year and stays continuously enrolled in the school until the first day of the AIMS assessment or testing window.[31]

The School's Ratings

24. The results of a charter school's academic performance on the indicators and measures of the academic performance framework are presented graphically in a figure known as the "academic dashboard" or "Dashboard."[32]

25. The Board's Exhibit 16 shows the School's Dashboard for the 2011-2012 ("2012 Dashboard") and the 2012-2013 ("2013 Dashboard") school years[33]. The School's overall rating for the 2011-2012 school year was "Does Not Meet Standard." For the 2012-2013 school year, the School did not meet the standard in any measure and fell far below the standard in multiple measures, including its Overall Rating.[34]

26. At the hearing, Founding Fathers advanced the argument that the School's failing academic performance was a result of its enrollment of students one or more years below grade level. However, the Board's academic performance framework

---

[27] Exhibit 2 at BCS111; Rowe, TR 1 at 39:23-40:9.
[28] ELLs are students that are not proficient in the English Language. *See* A.R.S. §15-751(4).
[29] Exhibit 2 at BCS114-16.
[30] Rowe, TR 1 at 40:17-18.
[31] Rowe, TR 1 at 41:3-6.
[32] Rowe, TR 1 at 34:14-21; Exhibit 2 at BCS127.
[33] On May 16, 2014, the Board re-opened its case for testimony on corrections made to the School's 2013 Dashboard contained in Exhibit 3, previously admitted into evidence on March 26, 2014. The corrected 2013 Dashboard is contained in Exhibit 16 and was admitted into evidence on May 16, 2014.
[34] Exhibit 16; Rowe, TR 4 at 837:16-18.

accounts for academic growth of students within any school year.[35] The Board's academic performance framework has two measures of student growth based on the Arizona Growth model: school median student growth percentile and school median student growth percentile for students in the lowest 25% of performance.[36] The Board's calculation of SGP ranks the School's students' growth in AIMS results against the growth for all students with the same test result in the previous year.[37] Consequently, the academic performance framework takes into account how well the School was educating students performing below grade.[38]

27. For SGP, the School's 2013 Dashboard shows that the School did not meet the Board's academic standard.[39] The School's SGP overall in math is 38, meaning that the students at the School were outperformed by 62% of their academic peers across the State in AIMS math.[40] The School's SGP overall in reading is 36.5, meaning that the students at the School were outperformed by 63.5% of their academic peers across the State in AIMS reading.[41] The School's SGP Bottom 25% in math is 38.5%, meaning that the School's lowest performing students were outperformed by 61.5% of their academic peers across the State in AIMS math.[42] The School's SGP Bottom 25% in reading is 42, meaning that the School's lowest performing students were outperformed by 58% of their academic peers across the State in AIMS reading.[43]

28. A school median SGP of 50 indicates that at least half of the students in the school showed more growth than at least half of their academic peers with similar performance across the state.[44] An SGP of 50 or more would meet the Board's academic standard.[45] The School's 2013 Dashboard reflects that the School did not meet the Board's academic standard for SGP overall or for SGP Bottom 25% in math or

---

[35] Exhibit 2 at BCS111.
[36] Exhibit 2 at BCS111.
[37] Exhibit 2 at BCS111; Rowe, TR 1 at 39:23-40:9.
[38] Exhibit 2 at BCS111.
[39] Exhibit 16.
[40] Exhibit 16; Rowe, TR 1 at 42:19-43:1; Rowe, TR 4 at 830:12-17.
[41] Exhibit 16; Rowe, TR 1 at 43:2-8; Rowe, TR 4 at 830:12-17.
[42] Exhibit 16; Rowe, TR 1 at 44:12-18; Rowe, TR 4 at 830:12-17.
[43] Exhibit 16; Rowe, TR 1 at 44:19-24; Rowe, TR 4 at 830:12-17.
[44] Exhibit 2 at BCS111; Rowe, TR 1 at 42:14-18.

reading.[46]

29. The School's 2012 Dashboard reflects that the School also failed to meet the Board's academic standard for SGP overall in math or reading in its 2011-2012 school year.[47] The School's SGP Bottom 25% declined from 2012 to 2013.[48]

30. For Percent Passing, the School's 2013 Dashboard shows that the School fell far below the Board's academic standard for proficiency in both math and reading.[49] The percentage of students at the School who passed the AIMS math test was 16.9%, compared to 60.9% for students statewide.[50] The percentage of students at the School who passed the AIMS reading test was 38.1%, compared to 77.2% for students statewide.[51] A school proficiency rate that meets or exceeds the statewide performance would meet the Board's standard.[52]

31. The School's 2012 Dashboard reflects that the School did not meet the Board's academic standard for proficiency in math or reading in its 2011-2012 school year.[53]

32. For Composite School Comparison, the School's 2013 Dashboard shows that the School fell far below the Board's academic standard in both math and reading.[54] The composite school comparison measures the performance of the School's subgroups (FRL, ELL, and SPED) to the performance of schools with similar subgroup populations across the state.[55] The expected proficiency rate is calculated by weighting the School's number of students tested in each combination of grade and subgroup by the State's percent proficient for that combination of grade and subgroup.[56]

---

[45] Rowe, TR 1 at 42:6-11.
[46] Exhibit 2 at BCS112; Exhibit 16; Rowe, TR 1 at 43:15-19; 45:6-10; Rowe, TR 4 at 830:12-17.
[47] Exhibit 16.
[48] Exhibit 16.
[49] Exhibit 16; Rowe, TR 4 at 832:21-833:2.
[50] Exhibit 16; Rowe, TR 4 at 832:15-20.
[51] Exhibit 16.
[52] Exhibit 2 at BCS114; Rowe, TR 1 at 48:7-9.
[53] Exhibit 16.
[54] Exhibit 16.
[55] Exhibit 2 at BCS115.
[56] Exhibit 2 at BCS115.

33. A school on par with the State's composite school comparison rate would score a zero.[57] If a school is performing better than the composite school, the school would score a positive number.[58] If a school is not performing equal to or better than the composite school, the school would score a negative number.[59] The School's actual proficiency rate in AIMS math is less than the expected proficiency rate by 32 percentage points.[60] The School's actual proficiency rate in AIMS reading is less than the expected proficiency rate by 28.2 percentage points.[61]

34. The School's 2012 Dashboard reflects that the School also fell far below the Board's academic standard for composite school comparison in math and reading in its 2011-2012 school year.[62]

35. The proficiency subgroup compares the proficiency rates of the FRL, ELL, and SPED subgroups within a school to the State average proficiency rate for that same subgroup.[63] The comparison allows the Board to analyze how a school's students are faring compared to similar students across the state.[64]

36. For Proficiency-Subgroup ELL, the School's 2013 Dashboard shows that the School received an "NR" (No Rating), reflecting insufficient data to complete the calculation.[65] In the School's case, there were less than 11 ELL students in attendance and who may not have been FAY students.[66] The School's 2012 Dashboard also shows that the School received an NR, reflecting insufficient data to complete the calculation.[67]

37. For Proficiency-Subgroup FRL, the School's 2013 Dashboard shows that the School fell far below the Board's academic standard in both math and reading.[68]

---

[57] Rowe, TR 1 at 50:4-6.
[58] Rowe, TR 1 at 50:7-9.
[59] Rowe, TR 1 at 50:9-11.
[60] Exhibit 16.
[61] Exhibit 16.
[62] Exhibit 16.
[63] Exhibit 2 at BCS116.
[64] Exhibit 2 at BCS116.
[65] Exhibit 16; Exhibit 2 at BCS127; Rowe, TR 1 at 52:10-16.
[66] Rowe, TR 1 at 52:10-16.
[67] Exhibit 16; Exhibit 2 at BCS127.
[68] Exhibit 16; Rowe, TR 4 at 835:5-10.

The percentage of FRL students at the School who passed the AIMS math test was 18%, compared to 52.3% for students statewide.[69] The percentage of FRL students at the School who passed the AIMS reading test was 39.6%, compared to 70.4% for students statewide.[70] A school proficiency rate that meets or exceeds the statewide performance would meet the Board's standard.[71]

38. The School's 2012 Dashboard reflects that the School did not meet the Board's academic standard for FRL proficiency in math or reading in its 2011-2012 school year.[72]

39. For Proficiency-Subgroup SPED, the School's 2013 Dashboard shows that the School did not meet the Board's academic standard in both math and reading.[73] The percentage of SPED students at the School who passed the AIMS math test was 8.7%, compared to 23.8% for students in the same grade levels statewide.[74] The percentage of SPED students at the School who passed the AIMS reading test was 21.7%, compared to 38.8% for students in the same grade levels statewide.[75]

40. The School's 2012 Dashboard reflects that the School also did not meet the Board's standard for SPED proficiency in math or reading in its 2011-2012 school year.[76]

41. At the hearing, Founding Fathers advanced the argument that the School's failing academic performance was a result of its high number of students coming from poverty and/or its students with disabilities. However, the Board's academic performance framework accounts for the School's population of students coming from poverty and students with disabilities in its FRL and SPED subgroup proficiency comparisons.[77] The academic performance framework's subgroup proficiency measures compare the proficiency of the FRL and SPED subgroups within

---

[69] Exhibit 16; Rowe, TR 1 at 52:21-53:2; Rowe, TR 4 at 836:3-8.
[70] Exhibit 16; Rowe, 836:3-8.
[71] Exhibit 2 at BCS116; Rowe, TR 1 at 53:6.
[72] Exhibit 16.
[73] Exhibit 16; Rowe, TR 4 at 835:22-836:2.
[74] Exhibit 16.
[75] Exhibit 16.
[76] Exhibit 16.
[77] Exhibit 2 at BCS116; Exhibit 16.

the School to the state average proficiency rate for those same subgroups in the same grade levels as those served by the School.[78] The School's Subgroup FRL proficiency rates are in the bottom 20% of statewide FRL subgroup performance in both math and reading.[79] The School's Subgroup SPED subgroup proficiency rates fall below statewide SPED subgroup performance in both math and reading.[80] In addition, there are charter schools operating in the State of Arizona with a FRL population greater than 70 percent that have been assigned a letter grade of A from the Department and have met the Board's academic performance standards.[81]

42. The Board's academic performance framework also accounts for the School's FRL and SPED population in its Composite School Comparison. The proficiency rate of the School's students is less than the expected proficiency rate (composite school) by 15 or more percentage points in both math and reading.[82]

43. The Board's academic performance framework includes the letter grade of each school as assigned by the Department.[83] Schools receiving a letter grade of D or F are considered "falling far below standard."[84] For State Accountability, the School's 2013 Dashboard shows that the School's letter grade of F fell far below the Board's academic standard.[85]

44. The School's 2012 Dashboard reflects that the School's letter grade of D also fell far below the Board's standard in its 2011-2012 school year.[86]

45. For its graduation rate, the School's 2013 Dashboard shows that the School received an "NR" (No Rating), reflecting insufficient data to complete the calculation.[87] In the School's case, while they did have students who graduated, there were less than 11 students for the purpose of the measurement.[88]

---

[78] Exhibit 2 at BCS116; Exhibit 16; FOF 35.
[79] Exhibit 16; Exhibit 2 at BCS116.
[80] Exhibit 16.
[81] Rowe, TR 1 at 186:3-13.
[82] Exhibit 16.
[83] Exhibit 2 at BCS116; Rowe, TR 1 at 54:3-7.
[84] Exhibit 2 at BCS117.
[85] Exhibit 16.
[86] Exhibit 16.
[87] Exhibit 16; Exhibit 2 at BCS127.
[88] Rowe, TR 1 at 55:15-19.

46. For its Overall Rating, the School's 2013 Dashboard shows that the School fell far below the Board's standard.[89] As a result, the School failed to meet the Board's academic performance expectations.[90]

Demonstration of Sufficient Progress

47. For a school that is not meeting the Board's academic performance expectations, the Board uses the academic performance framework to determine whether the school can demonstrate that it is making sufficient progress toward achieving the expectations.[91] In its determination of whether a charter holder demonstrates sufficient progress toward the Board's academic performance expectations, the Board considers the detail and success of the charter holder's previous efforts to improve academic performance in each of the measures in the academic framework in which the charter holder received fewer points than in the prior year, was rated NR, or that failed to meet the Board's standards.[92] Evidence of success must be presented using graphs, tables, or data charts that demonstrate, with specificity, improved academic performance based on data generated from valid and reliable assessment sources.[93] The Board categorizes the charter holder's demonstration into the following areas: (1) Curriculum; (2) Instruction; (3) Assessment; (4) Professional Development; (5) Accountability; and (6) Increasing Graduation Rate (for high schools only).[94]

48. In its demonstration, the charter holder submits a Demonstration of Sufficient Progress ("DSP document").[95] The DSP document provides the charter holder with the opportunity to share with the Board what the charter holder has done in the past to improve its academic performance and to present its efforts in specific areas and provide the data that demonstrates the effectiveness of the implementation of

[89] Exhibit 16; Rowe, TR 4 at 837:11-18.
[90] Rowe, TR 1 at 56:15-25; Rowe, TR 4 at 837:6-10.
[91] Rowe, TR 1 at 31:21-25; Exhibit 2 at BCS122.
[92] Exhibit 2 at BCS145.
[93] Exhibit 2 at BCS145.
[94] Exhibit 2 at BCS147-53.
[95] Rowe, TR 1 at 57:13-22.

those improvement efforts.[96] A charter holder has two months in which to complete its DSP document.[97] The DSP document is then evaluated using the criteria established in the academic performance framework ("initial evaluation").[98] A site visit is conducted at the school and, after the visit, and the school is provided an additional 48 hours following the site visit to submit additional documents in support of its demonstration to the Board.[99] A final evaluation is then conducted of the school's demonstration of its progress toward the Board's academic performance expectations.[100]

49. In a letter dated September 12, 2013, the Board advised Founding Fathers that the School did not meet the Board's academic performance expectations and directed Founding Fathers to submit a DSP document that would be used by the Board to determine whether the School was making sufficient progress toward the academic performance expectations set forth in the academic performance framework.[101] Founding Fathers was referred to the Board's Academic Performance Framework and Guidance for its preparation of the DSP document and the Board's evaluation criteria.[102] Founding Fathers was also advised that the Board's determination whether to restore the School to acceptable performance or to revoke the School's charter would be based on the evidence of Founding Fathers' performance in accordance with the academic performance framework adopted by the Board, including Founding Fathers' demonstration of its progress toward the Board's expectations.[103]

50. Based on the requirements in the Board's academic performance framework, Founding Fathers was required to address in its DSP document all measures in its Dashboard[104] where it received fewer points than in the prior year and/or where the measure was rated "NR", "Does Not Meet Standard", or "Falls Far

---

[96] Rowe, TR 1 at 57:13-22.
[97] Rowe, TR 1 at 58:16-19.
[98] Rowe, TR 1 at 58:21-59:6; Exhibit 2 at BCS147-53.
[99] Rowe, TR 1 at 60:8-12.
[100] Rowe, TR 1 at 60:12-16; Testimony of Steve Sarmento ("Sarmento"), TR 1 at 212:8-12.
[101] Exhibit 1C at BCS13, ¶5 and BCS14, ¶1.
[102] Exhibit 1C at BCS14, ¶ 1 and ¶2.
[103] Exhibit 1C at BCS13, ¶3 and ¶1D at BCS15, ¶1.
[104] Refers to the Dashboard that is contained in Exhibit 3.

Below Standard" in the current or prior year.[105]

51. On October 17, 2013, Founding Fathers was advised of the process by which the Board's staff would conduct an initial evaluation of the DSP document, provide the evaluation to the charter representative, and then conduct a site visit to the School to confirm the information contained in the DSP document and for areas in which the DSP document was deemed "Not Acceptable" in the initial evaluation.[106] Founding Fathers was also advised of its opportunity, following the site visit, to provide additional evidence for the purpose of its demonstration of sufficient progress toward meeting the Board's academic expectations.[107] Founding Fathers was advised that its site visit would be conducted on November 20, 2013.[108]

52. The School timely submitted its DSP on November 12, 2013.[109]

53. On November 14, 2013, Founding Fathers was provided with the initial evaluation of its DSP document and advised of the process for the site visit.[110] In its initial evaluation, Founding Fathers' DSP document scored "Not Acceptable" in all measures.[111]

54. On November 20, 2013, Board staff conducted a site visit to the School to meet with the School's leadership team to discuss the results of the initial evaluation, to verify information included in the DSP document, and review additional related documents provided by Founding Fathers.[112] Founding Fathers was also requested to make available the information identified in its DSP document.[113] This information is requested for Board staff to verify that what was described in the DSP document is in

---

[105] Exhibit 1C at BCS14, ¶1; Exhibit 2 at BCS145; Rowe, TR 1 at 59:11-24.
[106] Exhibit 1D at BCS15, ¶2.
[107] Exhibit 1D at BCS15, ¶2.
[108] Exhibit 1D at BCS15, ¶3.
[109] Exhibits 1A at BCS3 and 1E.
[110] Exhibit 1D at BCS16.
[111] Exhibit 1F; Sarmento, TR 1 at 212:22-213:6. The Demonstration of Sufficient Progress Evaluation Instrument contained in Exhibit 1F contains the results of both the initial evaluation conducted on November 14, 2013 and the final evaluation conducted on December 2, 2013. The designation of "I" and the unbolded comments represent the results of the initial evaluation. The designation of "S" and the bolded comments represent the results of the final evaluation. Sarmento, TR 1 at 216:1-25.
[112] Exhibit 1D at BCS16, ¶2.
[113] Exhibit1 D at BCS16, ¶4.

place at the School.[114]

55. The School provided Board staff with documents at the site visit and within 48 hours following the site visit.[115]

56. Subsequent to the submission of the additional documents and information, Founding Fathers inquired whether any further information was needed. Board staff indicated that Founding Fathers should submit any additional documents it believed supported its DSP. No specific documents or forms of proof were requested of the School and no designation of deficiency was submitted to the School.

57. Steve Sarmento, Program and Project Specialist for the Board, was part of the Board staff team that conducted the initial evaluation of Founding Fathers' DSP, as well as the site visit and the final evaluation of the Founding Fathers' demonstration of its progress toward the Board's academic performance expectations.[116] In the final evaluation of Founding Fathers' demonstration, Mr. Sarmento considered the site visit and documentation and evidence provided at and after the site visit.[117] In its final evaluation, Founding Fathers' demonstration again scored "Not Acceptable" in all measures.[118] In both the initial and final evaluation of Founding Fathers' demonstration of its progress toward the Board's academic performance expectations, Mr. Sarmento applied the criteria contained in the academic performance framework.[119]

58. Mr. Sarmento has experience with curriculum implementation, monitoring, and alignment.[120] He has a bachelor's degree in English and, following a post-baccalaureate teacher's certification program through Arizona State University, received his teacher's certification and taught high school English.[121] He also has experience in the creation and delivery of professional development to teachers in curriculum implementation, use of assessments, and the analysis of data.[122]

---

[114] Sarmento, TR 1 at 214:4-9.
[115] Exhibit 1G; Sarmento, TR 1 at 214:22-215:4.
[116] Sarmento, TR 1 at 208:22-24.
[117] Sarmento, TR 1 at 212:8-12; 215:5-11.
[118] Exhibit 1F; Sarmento, TR 1 at 213:4-6.
[119] Sarmento, TR 1 at 212:18-21; 215:12-16.
[120] Sarmento, TR 1 at 206:16-24.
[121] Sarmento, TR 1 at 206:25-207:4.
[122] Sarmento, TR 1 at 207:16-25.

Curriculum

59. The Board's academic performance framework required Founding Fathers to demonstrate that it has a system to create, implement, evaluate, and revise curriculum, including supplemental curriculum, aligned with the Arizona College and Career Ready Standards ("ACCRS"), evidenced by curriculum alignment, curriculum maps, pacing guides, instructional material adoptions, committee work, data review teams, and clearly defined and measureable implementation across the School.[123]

60. Founding Fathers is required to provide a curriculum aligned to the ACCRS, which were adopted by the Arizona State Board of Education in June 2010.[124] The ACCRS identify the knowledge and skills that students are expected to have at a given grade level in a particular content area, such as reading or math.[125] Founding Fathers was required to transition its teaching to the ACCRS.[126]

61. Yearly lesson plans identify the ACCRS to be addressed in a given subject at a given grade level throughout the school year and describe the instruction to be provided to master the ACCRS.[127] A yearly lesson plan ensures that all of a grade's ACCRS are taught within the school year.[128] A weekly lesson plan provides detail of the weekly instruction and is aligned to the yearly lesson plan to further ensure that the required ACCRS are being taught.[129]

62. At the site visit, Founding Fathers provided Board staff with its yearly and weekly lesson plans for grades kindergarten through five for the week of November 18-21.[130]

63. Mr. Sarmento testified that the yearly and weekly English language arts lesson plans provided by Founding Fathers for its second/third grade combined classroom did not align, meaning that the second and third grade reading ACCRS identified to be taught in the School's yearly lesson plan were not present in the

[123] Exhibit 2 at BCS148.
[124] Exhibit 10.
[125] Sarmento, TR 1 at 220:2-7.
[126] Exhibit 10.
[127] Sarmento, TR 1 at 219:19-220:1; 223:19-21.
[128] Sarmento, TR 1 at 223:16-23.
[129] Sarmento, TR 1 at 223:24-224:5.

School's corresponding weekly plan.[131] The weekly lesson plans also did not identify that any second grade English language arts ACCRS were being taught in the second/third grade combined classroom.[132] Founding Fathers failed to present any evidence to refute Mr. Sarmento's testimony.

64. Mr. Sarmento also testified that throughout the second/third grade English language arts lesson plans provided by Founding Fathers, the ACCRS identified in the yearly lesson plans did not align to the instructional activities described in the lesson plans.[133] Mr. Sarmento testified that, as a result, the School did not have an effective plan for ensuring that its students were going to be mastering the English language arts ACCRS required to be taught.[134] Founding Fathers failed to present any evidence to refute Mr. Sarmento's testimony.

65. Mr. Sarmento also testified that the yearly and weekly math lesson plans provided by Founding Fathers for its second/third grade combined classroom did not align, meaning that the second and third grade math ACCRS identified to be taught in the School's yearly lesson plan were not present in the corresponding weekly plan.[135] Mr. Sarmento testified also that the weekly lesson plans failed to identify that any second grade ACCRS were being taught in the second/third grade combined classroom.[136] Founding Fathers failed to present any evidence to refute Mr. Sarmento's testimony.

66. Mr. Sarmento also testified that ACCRS identified in Founding Fathers' weekly English language arts lesson plans for its fourth/fifth grade combined classroom did not align to the instructional activities described in lesson plans.[137] Founding Fathers failed to present any evidence to refute Mr. Sarmento's testimony.

67. Mr. Sarmento also testified that, while the School's year began on August 5, 2013, its kindergarten lesson plans did not identify that ACCRS were being taught

---

[130] Sarmento, TR 1 at 222:8-12; 222:24-223:3; Exhibit 6A-C.
[131] Sarmento, TR 1 at 226:7-20; Exhibits 6B and 7B; Exhibits 9B and 9E.
[132] Sarmento, TR 1 at 226:20-21; 233:12-17; Exhibits 6B and 7B.
[133] Sarmento, TR 1 at 228:18-20.
[134] Sarmento, TR 1 at 232:18-233:2.
[135] Sarmento, TR 1 at 234:12-235:7; Exhibits 6A and 7B.
[136] Sarmento, TR 1 at 226:20-21; 233:12-17; Exhibits 6B and 7B.

until September 30, 2013.[138] Additionally, once identified, the ACCRs identified in the lesson plans did not align to the instructional activities described in the lesson plans.[139] Founding Fathers failed to present any evidence to refute Mr. Sarmento's testimony.

68. In response to its poor AIMS math scores, the School purchased new Envision Math curriculum in July 2013; but as of September, 2013 had not received the curriculum in its entirety and, as a result, was still in the process of implementation at the time of the submission of its DSP document in November 2013.[140] Janice Stewart, Founding Fathers' Director and the School's teacher for sixth, seventh, and eighth grades, testified that the junior high math curriculum did not arrive until October 2013.[141] Ms. Tate, the School's curriculum specialist, testified that Founding Fathers also purchased SuccessNet for its math curriculum.[142] However, the SuccessNet program was also not purchased until July 2013 and not received until late September 2013.[143] Founding Fathers' kindergarten lesson plans reflect that the School was continuing to use its prior math curriculum, Harcourt Math, as late as the week of November 18, 2013.[144] Mr. Sarmento determined that the School was not consistently and systematically implementing its new math curriculum.[145]

69. Founding Fathers did not make its sixth, seventh, or eighth grade lesson plans available to Board staff at or following the site visit.[146]

70. The middle school math pacing guides Founding Fathers provided to Board staff, in representation of what was being taught to its seventh and eighth grade students in the current school year, reflect the academic standards in effect before the implementation of ACCRS.[147]

---

[137] Sarmento, TR 1 at 240:22-246:3; Exhibit 7C.
[138] Sarmento, TR 1 at 236:2-10; Exhibit 7A.
[139] Sarmento, TR 1 at 236:11-238:7; Exhibits 7A and 9B.
[140] Exhibit 1E at BCS21.
[141] Testimony of Janice Stewart ("J. Stewart"), Transcript of Record of March 28, 2014 hearing ("TR 3") at 807:19-21.
[142] Testimony of Kamila Kanoell-Tate ("Tate"), Transcript of Record of March 27, 2014 hearing ("TR 2") at 468:12-469:1.
[143] Tate, TR 2 at 468:19-24.
[144] Exhibit 7A at BCS248; Sarmento, TR 1 at 240:2-8.
[145] Sarmento, TR 1 at 240:12-21.
[146] Sarmento, TR 1 at 246:4-16.
[147] Exhibits 1F at BCS59 and 8A and 8B; Sarmento, TR 1 at 247:11-249:9; Exhibits 9F and 9G.

71. Joey Reidhead runs Founding Fathers' high school program and special education department.[148] Mr. Reidhead testified that the School switched from Novel Stars to the APlus Online Curriculum for its high school for the 2013-2014 school year.[149] Founding Fathers did not make any high school lesson plans for its APlus Online curriculum available to Board staff at the site visit.[150] Founding Fathers also failed to provide evidence of the alignment of its APlus Online curriculum to the ACCRS.[151] At the hearing, Mr. Reidhead testified that the APlus Online Curriculum has "really made the kids accountable for their work."[152] However, the testimony of Mr. Reidhead reflects that student time online is not monitored, resulting in students having spent as little as 2.4 hours on math lessons over the course of the School's first semester.[153]

72. Katherine Poulos also participated in the site visit at the School and in the initial and final evaluation of Founding Fathers' demonstration of its progress toward the Board's academic performance expectations.[154] Ms. Poulos has been placed at the Board since September 2013 through a fellowship with the National Association for Charter School Authorizers.[155] At the end of February 2014, she also assumed the position of Acting Interim Director of Charter Accountability for the Board.[156] As Acting Interim Director of Charter Accountability, Ms. Poulos is responsible for managing Board staff in conducting charter school reviews, annual monitoring of charter schools, and charter renewal applications.[157] She is also responsible for monitoring the academic performance of charter schools sponsored by the Board and evaluating charter schools' progress toward the Board's academic performance expectations.[158]

---

[148] Testimony of Joey Reidhead ("Reidhead"), TR 3 at 517:24-518:2.
[149] Reidhead, TR 3 at 519:23-520:4; 569:1-6.
[150] Sarmento, TR 1 at 251:2-5.
[151] Sarmento, TR 1 at 251:14; 252:8; Exhibit 1F at BCS59.
[152] Reidhead, TR 3 at 520:6-8.
[153] Reidhead, TR 3 at 606:3-6.
[154] Testimony of Katherine Poulos ("Poulos"), TR 2 at 268:23-270:11.
[155] Poulos, TR 1 at 265:19-266:3.
[156] Poulos, TR 2 at 266:4-12.
[157] Poulos, TR 2 at 266:13-20.
[158] Poulos, TR 2 at 266:21-267:7.

73. Ms. Poulos has a bachelor's degree and a juris doctorate.[159] She has a teacher's certification and taught middle school in a high poverty school in Mississippi through the Teach for America program.[160] She has experience in curriculum, instruction, and assessment through her teaching and through professional development received via the Teach for America program.[161]

74. A system to create, implement, evaluate, and revise curriculum aligned with the ACCRS is necessary for students to learn the necessary skills to demonstrate mastery of the ACCRS, to meet student needs, and increase student academic proficiency and growth.[162] Ms. Poulos testified that Exhibit 4, provided by Founding Fathers in response to Board staff's request for a description of its process for selecting its math curriculum, described the School's purchase of math curriculum, but lacked an analysis for the selection of the curriculum and a plan for the continuing evaluation of the curriculum it implemented.[163] Founding Fathers also did not describe any process for its evaluation and revision of its current reading curriculum, *Teach Your Children to Read Well*.[164] At the hearing, no evidence was provided by the School to refute Ms. Poulos' testimony.

75. Board staff determined that Founding Fathers did not meet the criteria contained in the academic performance framework to demonstrate or evidence a process or system to create, implement, evaluate and revise curriculum.[165]

Instruction

76. The Board's academic performance framework required Founding Fathers to demonstrate a system to monitor the integration of the ACCRS into instruction and evaluate the instructional practices of its teachers evidenced by lesson plan reviews, formal teacher evaluations, informal classroom observations, standards checklists, data

[159] Poulos, TR 2 at 267:10-12.
[160] Poulos, TR 2 at 267:10-23.
[161] Poulos, TR 2 at 268:2-15.
[162] Poulos, TR 2 at 271:5-272:8.
[163] Poulos, TR 2 at 274:22-275:17.
[164] Poulos, TR 2 at 275:18-276:6.
[165] Poulos, TR 2 at 274:17-276:11; Exhibit 1A at BCS4; Exhibit 1F; Exhibit 2 at BCS148.

review teams, and standard-based assessments.[166] Additionally, the system must provide for some analysis and feedback for its further development.[167]

77. Lesson plan reviews are a process by which a school's instructional leader evaluates, reviews, and monitors its teachers' lesson planning in preparation for daily instruction.[168] Founding Fathers did not demonstrate that lesson plan reviews were occurring at the School.[169] This is further evidenced by Mr. Sarmento's determination that weekly and yearly lesson plans provided by Founding Fathers at the site visit failed to align and that the ACCRS identified in the yearly lesson plans did not align to the instructional activities described in the lesson plans.[170] At the hearing, no evidence was provided by Founding Fathers to demonstrate that lesson plan reviews were occurring at the School.

78. Formal teacher evaluations are conducted by a school's instructional leader and provide a summative review of a teacher's effectiveness and quality.[171] They are typically conducted at the end of each school semester.[172] Board staff requested, but did not receive, evidence that teacher evaluations were being conducted at the School.[173] Nor did Founding Fathers demonstrate that it had implemented a mechanism for measuring its teachers' effectiveness.[174] At the hearing, Founding Fathers did not provide any evidence that formal teacher evaluations were being conducted at the School.

79. Classroom observations are periods in which the school's instructional leader goes into the classroom and evaluates a teacher's instructional practices to ensure and monitor that the school's instructional and curriculum plans are being implemented within the classroom.[175] In response to Board staff's request for the School to demonstrate its process for classroom observations, the School provided a

---

[166] Exhibit 2 at BCS149.
[167] Exhibit 2 at BCS149.
[168] Poulos, TR 2 at 277:12-17.
[169] Poulos, TR 2 at 279:9-16.
[170] See FOFs 62-67.
[171] Poulos, TR 2 at 277:25-278:6.
[172] Poulos, TR 2 at 278:1-3.
[173] Poulos, TR 2 at 282:17-283:6.
[174] Poulos, TR 2 at 284:5-9.

manila folder of handwritten notes over a two to three year period in which Board staff identified only two instances of classroom observations.[176] In neither instance did the notes evidence that the School monitored its teachers' integration of the ACCRS into instruction.[177] In its DSP document, Founding Fathers stated that it was "working on implementing a more thorough teacher observation to help guide teachers in more effective classroom instructional strategies" and that "this observation tool will also be a guide for [Professional Development] in correlation with student Data."[178] Founding Fathers failed, however, to provide evidence of this work or of its teacher observation tool at or following the site visit.[179] At the hearing, Founding Fathers did not provide any evidence of a process or tool for classroom observations.

80. In her final evaluation, Ms. Poulos determined that Founding Fathers failed to demonstrate that it had a system in place for monitoring its teachers' integration of the ACCRS into student instruction.[180] Founding Fathers failed to present any evidence to refute Ms. Poulos' determination.

Assessment

81. The Board's academic performance framework required Founding Fathers to demonstrate a comprehensive assessment system based on clearly defined performance measures aligned with the curriculum and instructional methodology and includes data collection from multiple assessments, such as formative and summative assessments, common/benchmark assessments, and data review teams.[181]

82. A comprehensive assessment system allows a school to monitor its students' mastery of the ACCRS throughout the school year and to inform, adapt, and supplement student instruction in areas in which students are having difficulties.[182] Analysis and monitoring of data from student assessment results identifies weaknesses of students, individually and across the classroom, and whether a school's instruction is

---

[175] Poulos, TR 2 at 277:18-24.
[176] Poulos, TR 2 at 280:1-20; Exhibit 11.
[177] Poulos, TR 2 at 280:10-24.
[178] Exhibit 1E at BCS19, ¶ 6.
[179] Poulos, TR 2 at 281:12-282:14.
[180] Poulos, TR 2 at 285:4-10.
[181] Exhibit 2 at BCS150.

effective or needs to be readjusted.[183]

83. The evidence presented at the hearing demonstrated that Founding Fathers conducts a variety of assessments intended to measure student academic progress: the AIMSWeb benchmark assesses students three times during the year in math and reading; AIMS "probes" test students daily in reading and twice-weekly in math; the SRA benchmark assesses students three times during the year in reading comprehension; Brigance assesses students three times during the year in math and spelling; APlus Online Curriculum has assessment tests for which immediate and weekly feedback on a student's progress is easily available; the Woodcock-Johnson assesses new students' skills and grade level equivalency; and the Compass test.[184]

84. The School's Exhibit T contained Woodcock-Johnson assessment results for twenty-two students for 2008 through 2013.[185] Founding Fathers' witness did not know the basis for the selection of the students whose results were contained in Exhibit T.[186] At the hearing, Founding Fathers did not provide the results of any of those same students from a prior administration of the assessment in order to allow an evaluation of the students' academic progress.[187]

85. In its DSP document, Founding Fathers stated that it held meetings on Fridays to "collaborate, analyze student data and receive professional development (which is driven by the apparent weakness evidenced by data), to increase student achievement. These Friday meetings['] primary purpose is to review our lowest quartile students and students who show no growth or regression and what strategies we need to implement to increase their learning."[188] The DSP document failed, however, to evidence any data collection or analysis.[189]

---

[182] Poulos, TR 2 at 285:11-16.
[183] Poulos, TR 2 at 291:24-292:18.
[184] Exhibit 1E at BCS18; Tate, TR 2 at 387:2-5; 431:7-9; 475:2-4; Testimony of Samantha Torrez-Baca ("Torrez"), TR 3 at 642:20-643:5; 683:25-684:1; 683:11-13; Testimony of Kerry Pettit ("Pettit"), TR 3 at 699:10-11; Reidhead, TR 3 at 521:14-18; 525:3-526:14; 528:14-17; 535:24-536:4; 556:8-10; 602:5-6; Testimony of Janice Stewart ("J. Stewart"), TR 4 at 907:18-909:14.
[185] Exhibit T; Reidhead, TR 3 at 572:4-13.
[186] Reidhead, TR 3 at 572:4-13.
[187] Reidhead, TR 3 at 574:23-575:16.
[188] Exhibit 1E at BCS19.
[189] Exhibit 1E.

86. In response to Board staff's request for documentation of/from the Friday meetings, Founding Fathers provided what is contained in Board Exhibit 13.[190] Ms. Poulos determined that Exhibit 13 contained meeting agendas and some notes, but failed to evidence that the Friday meetings were being effectively used for data analysis.[191]

87. In response to Board staff's request for evidence of its data analysis, Founding Fathers provided Exhibits 14 and 15.[192] Exhibit 14 contains undated information about the School's students' 2012-2013 AIMS scores in Reading and Math for grades 2 through 7 and, for some students, scores from prior years. Exhibit 15 contains information on the School's students' AIMSWeb Fall and Winter reading and math assessment scores for grades 2 through 8 for 2012-2013 and 2013-2014. No analysis of the assessment data was provided by Founding Fathers.[193] There was no demonstration of how or whether the data was used by Founding Fathers to inform its instructional decisions.[194] Nor did Founding Fathers demonstrate that it readjusted its instruction to students based on an analysis of student data.[195] Founding Fathers did not provide, in either its demonstration of its progress or at the hearing, any data analysis to demonstrate its efforts to improve student growth and/or proficiency in math and reading for its students overall, for its lowest performing students, or for its student subgroups.[196] The 2011 and 2012 Dashboards reflect a decrease in the School's student growth and proficiency in both math and reading school-wide, for its lowest performing students, and for its student subgroups.[197] Founding Fathers provided no evidence that its 2014 Dashboard results would be any different from its 2013 Dashboard.

88. In its review of the assessment data provided by Founding Fathers in Exhibits 14 and 15 to demonstrate its students' academic improvement, Board staff

---

[190] Exhibit 1D at BCS16; Poulos, TR 2 at 287:1-6.
[191] Poulos, TR 2 at 288:22-25.
[192] Tate, TR 2 at 468:5-11; Exhibit 1D at BCS16; Poulos, TR 2 at 290:24-291:2.
[193] Poulos, TR 2 at 291:3-19.
[194] Poulos, TR 2 at 291:3-19; Exhibit 1F.
[195] Poulos, TR 2 at 292:20-25.
[196] Exhibit 1F.

looked at students for whom two years of data was provided and found that two-thirds of the School's students declined or showed no improvement in AIMSWeb performance and scored at "Falls Far Below" or "Approaches" on AIMS.[198]

89. At the hearing, Founding Fathers introduced graphs of results of a Fall and a Winter administration of one of its benchmark assessments in reading and math for some of its students in grades 2 through 8.[199] The graphs depict the movement of students between "Tiers" by grade level in combined grade classrooms over the course of a semester, but provide no comparison to students' performance from prior years.[200]

90. In its demonstration and at the hearing, Founding Fathers provided no evidence that it uses, analyzes, or monitors the data from its multiple assessments or that any of its data documents any increase in its students' growth and/or proficiency in math or reading such that the School is moving toward meeting the Board's academic performance expectations.[201]

91. Board staff determined that Founding Fathers did not meet the criteria contained in the academic performance framework to demonstrate or evidence a comprehensive assessment system.[202]

Professional Development

92. The Board's academic performance framework required Founding Fathers to describe a comprehensive professional development plan that is aligned with teacher learning needs, includes follow-up and monitoring strategies, focuses on areas of high importance, and supports high quality implementation.[203]

93. A comprehensive professional development plan improves the quality and effectiveness of teacher instruction by identifying and addressing teachers' weaknesses.[204]

94. Follow-up and monitoring strategies are used by a school's instructional

---

[197] Exhibit 16.
[198] Poulos, TR 2 at 322:15-323:22.
[199] Exhibits CC through TT.
[200] Torrez, TR 3 at 683:18-21; Pettit, TR 3 at 739:23-740:2.
[201] Poulos, TR 2 at 325:22-326:8.
[202] Exhibit 2 at BCS150; Exhibit 1F.
[203] Exhibit 2 at BCS151.

leader to identify whether learning opportunities and experiences are being implemented effectively in the classroom, whether teachers need more instruction or support to implement the strategies and information learned in professional development, and that the professional development being provided addresses teacher weaknesses and instructional practices.[205]

95. In its DSP document in the area of professional development, the School provided Board staff with surveys in which its teachers identified their goals and their preference of additional learning opportunities.[206] The School also provided Exhibit 13 to Board staff at the site visit in demonstration of its professional development.[207] At the hearing, Ms. Tate testified that for the past several years, notes were taken at the School's professional development meetings and that written materials were provided to meeting participants.[208] Founding Fathers, however, failed to produce these notes or materials to the Board during its demonstration of its progress or at the hearing.[209]

96. At the hearing, Ms. Tate testified that she, Mr. Stewart, and the School's teachers attended an Intel Math/RTI Math-Science Partnership Program.[210] Founding Fathers did not, however, demonstrate any mechanism for follow-up to ensure effective implementation of the program into student instruction or any resultant increase in student growth or proficiency. The testimony also demonstrated that the School's professional development primarily consisted of teachers using the Friday meetings to seek feedback on handling situations with individual students in their classrooms; as opposed to any school-wide professional development program.[211]

97. Board staff determined that Founding Fathers failed to meet the criteria to demonstrate a comprehensive professional development plan aligned with teacher learning needs or follow-up or monitoring of teacher implementation of professional

---

[204] Poulos, TR 2 at 293:1-4.
[205] Poulos, TR 2 at 293:11-24.
[206] Poulos, TR 2 at 295:2-8.
[207] Poulos, TR 2 at 283:19-21.
[208] Tate, TR 2 at 458:8-460:13.
[209] Exhibit 13.
[210] Exhibit U; Tate, TR 2 at 390:4-13.
[211] Torrez, TR 3 at 664:8-10; Pettit, TR 3 at 731:3-6; Stewart, TR 3 at 798:24-799:4; Martz, TR 4 at 941:18-942:1.

development in the classroom.[212]

State Accountability

98. For its performance in the 2012-2013 school year, the Department assigned the School an achievement profile letter grade of F.[213]

99. At the hearing, Founding Fathers advanced the argument that the sole catalyst for the hearing was the School's letter grade of F and provided Exhibit VV in support of its criticism of the Board's use of the Department's letter grade system. This premise is not supported by the testimony and the exhibits. Ms. Rowe testified that in addition to the School's letter grade of F, the Board's decision to revoke the charter was based on Founding Fathers' failure to meet the Board's academic performance expectations and to demonstrate sufficient progress.[214] Ms. Rowe also testified that under the Academic Intervention Schedule contained in the Board's academic performance framework, Founding Fathers could still have found itself proceeding to a revocation hearing.[215]

100. The Department's achievement profile letter grade is weighted at 5% of Founding Fathers' Dashboard.[216]

Graduation Rate

101. In its demonstration of its progress, Founding Fathers did not address strategies it uses to ensure that its students graduate on time.[217] Education and career plans ("ECAP") provided by Founding Fathers after its site visit did not contain enough information to determine if its students were on track to graduate in four years.[218] At the hearing, Mr. Reidhead testified that he met twice a year with each of the School's high school students to track students' classes, class credits, and AIMS results on an ECAP.[219] At the hearing, Mr. Reidhead also testified that the ECAP was also used to

---

[212] Exhibit 1F; Poulos, TR 2 at 295:23-296:9.
[213] See FOF 12.
[214] Rowe, TR 1 at 65:3-10.
[215] Rowe, TR 1 at 128:10-23; 191:1-192:15; Exhibit 2 at BCS142.
[216] Exhibit 16 at "State Accountability".
[217] Exhibit 1A at BCS005, ¶6.
[218] Exhibit 1A at BCS005, ¶6.
[219] Reidhead, TR 3 at 532:9-21; 534:21-24; Exhibit R.

help track whether a high school student was on track to graduate from the School.[220] The ECAPs provided during the hearing as an exhibit were incomplete and did not contain current information on students' classes and class credits toward graduation requirements.[221] A determination could not be made from Exhibit R that Founding Fathers' high school students were on track to graduate in four years.

Other Evidence

102. Through the demonstration of sufficient progress process, Founding Fathers was provided the opportunity through a variety of means to demonstrate that it was making progress with regard to its students' academic performance.[222] Board staff determined that Founding Fathers did not demonstrate that it was making sufficient progress toward the Board's academic performance expectations.[223]

103. The parents who testified at the hearing praised the family aspect of the School and staff and, also, of improvements in their children's social skills and self-esteem while attending the School.[224]

104. Founding Fathers noted that the beginning in 2010, the School started seeing an increase in the number of SPED students being referred to the School. The increase was believed to be attributed to a local pediatrician who was recommending the School to parents of children with special needs.

105. Founding Fathers argued that it was denied its due process rights by the Board's failure to inform the School of any specific deficiencies found during the analysis of the DSP and supporting documents presented prior to the Board's December 9, 2013 meeting. Founding Fathers was given multiple opportunities to submit any documentation it deemed necessary to support its position prior to the Board's review of the issue. Founding Fathers did not advance any authority to support a conclusion that the Board had an obligation to request additional information or notify the School of any deficiencies in advance of the Board's review.

---

[220] Reidhead, TR 3 at 534:18-20.
[221] Reidhead, TR 3 at 579:17-19; 580:4-5; 582:12-17; 583:23-25; Exhibit R.
[222] Rowe, TR 1 at 79:14-21.
[223] Poulos, TR 2 at 324:10-12; 378:1-5.

106. At the hearing, Founding Fathers failed to present any evidence of specific or effective action it took over the last three years to raise its students' AIMS test scores. The School's Director testified that her focus over the last three years has been "just building the foundation."[225]

107. Founding Fathers proffered that students can improve within a measure on AIMS (i.e., improve their score within the "Approaches" category), but provided no evidence of this with its own students.

108. Founding Fathers presented a report prepared in 2013 by Anabel Aportela, Ph.D. and Ildiko Laczko-Kerr, Ph.D. for the Center for Student Achievement (the "Report on Standards") indicating that

> [u]nless otherwise mitigated, poverty can have a significantly deleterious effect on learning. Students growing up in poverty often arrive at school with challenges that adversely affect their ability to learn or to learn at the same rate as their wealthier counterparts. . . . The relationship between poverty and measures of achievement (e.g. percent of students passing AIMS) has long been a limitation of measurement of student achievement in education.[226]

109. The Report on Standards analyzed a range of schools and determined that the total composite and growth point difference between schools with less than 25 percent poverty and the schools with 75 percent or more poverty is enough of a difference to place the schools with the lower percent of poverty in the A category and the schools with the higher percent of poverty in the C category.[227]

110. The Report on Standards concluded that, to a large extent, school ratings were tied to the degree of poverty in a school, but that high poverty schools were not simply poor quality schools.[228]

CONCLUSIONS OF LAW

---

[224] Eoff, TR 2 at 484:16-19; Reidhead, TR 3 at 551:3-5; 552:4; Bennett, TR 3 at 618:14-15; 617:15-18; Pettit, TR 3 at 735:4; Winans, TR 3 at 751:12-13.
[225] J. Stewart, TR 4 at 892:12-893:4.
[226] Exhibit VV at FF336-37.
[227] Id. at FF341.
[228] Id. at FF345.

1. In this proceeding, the Board bears the burden to prove, by a preponderance of the evidence, that grounds exist to revoke Founding Fathers' Charter and that revocation is an appropriate remedy.[229]

2. A preponderance of the evidence is "such proof as convinces the trier of fact that the contention is more probably true than not."[230] "It is evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not."[231]

3. Charter schools are established by contract between a sponsor and a public body, private person, or private organization to provide learning that will improve pupil achievement.[232]

4. The Arizona Department of Education compiles an annual achievement profile for each public school and school district.[233]

5. The achievement profile used to determine a school and school district classification uses a letter grade system as follows: (i) A school or school district assigned a letter grade of A shall demonstrate an excellent level of performance; (ii) A school or school district assigned a letter grade of B shall demonstrate an above average level of performance; (iii) A school or school district assigned a letter grade of C shall demonstrate an average level of performance; (iv) A school or school district assigned a letter grade of D shall demonstrate a below average level of performance; and (v) A school or school district assigned a letter grade of F shall demonstrate a failing level of performance.[234]

6. If a charter school is assigned a letter grade of F, the charter school's sponsor must either take action to restore the charter school to acceptable performance or revoke the charter school's charter.[235]

---

[229] *See* A.R.S. § 41-1092.07(G)(2); A.R.S. § 15-183(I)(3); A.A.C. R2-19-119.
[230] MORRIS K. UDALL, ARIZONA LAW OF EVIDENCE § 5 (1960).
[231] BLACK'S LAW DICTIONARY 1182 (6th ed. 1990).
[232] A.R.S. § 15-104(4), A.R.S. § 15-181(A), and A.R.S. § 15-183(B) and (C).
[233] A.R.S. § 15-241(A).
[234] A.R.S. § 15-241(H).
[235] A.R.S. § 15-241(U).

7. Founding Fathers' school was assigned the letter grade of F as a result of its third consecutive year of a below average level of performance.

8. The Board has the authority to revoke Founding Fathers' charter at any time if it determines that Founding Fathers has failed to meet or make sufficient progress toward the academic performance expectations set forth in the Board's performance framework.[236] The Board's academic performance framework sets forth the academic performance expectations of the charter schools it sponsors and the measurement of sufficient progress toward the academic performance expectations.[237]

9. It was apparent from the testimony offered in support of the School that its staff and the parents of its students passionately endorse the School and wish that it remain operating.

10. The School is clearly attempting to address a community need; however, it is required to do so within the framework established by the Board. The Administrative Law Judge has no doubt that the School has helped many students, but the students' performance must be measured against other similarly situated students' performance across the State of Arizona. And while the School is to be commended for the actions recently taken to address its low performance, it appears to be a case of "too little, too late."

11. The evidence of record established that Founding Fathers did not meet the academic performance expectations set forth in the Board's academic performance framework.

12. The weight of the evidence also established that Founding Fathers failed to demonstrate that it was making sufficient progress toward the academic performance expectations set forth in the Board's academic framework.

13. Consequently, the Board met the burden to show that grounds existed to revoke Founding Fathers' charter and that revocation was the appropriate sanction.

ORDER

[236] A.R.S. § 15-183(I)(3)(a).
[237] A.R.S. § 15-183(R).

Based upon the above, on the effective date of the Order entered in this matter the charter between the Board and Founding Fathers shall be revoked.

In the event of certification of the Administrative Law Judge Decision by the Director of the Office of Administrative Hearings, the effective date of the Order will be five days from the date of that certification.

Done this day, July 8, 2014.

/s/ Tammy L. Eigenheer
Administrative Law Judge

Transmitted electronically to:

DeAnna Rowe, Executive Director
State Board for Charter Schools