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IN THE OFFICE OF ADMINISTRATIVE HEARINGS

STATE OF ARIZONA

In the Matter of: **KIN DAH LICHI'I OLTA', INC.,** a non-profit corporation, operating **KIN DAH LICHI'I OLTA',** a charter school	No. 14F-FSRV-003-BCS **NOTICE OF FILING OF TRANSCRIPT OF HEARING OF MARCH 18, 2014** (Honorable Brian Brendan Tully)

NOTICE is hereby given of the filing of the transcript of the testimony of the hearing held in this matter on March 18, 2014. *See* attached transcript.

Respectfully submitted this 1st day of April, 2014.

THOMAS C. HORNE
Attorney General

By /s/ Kim S. Anderson
Kim S. Anderson
Assistant Attorney General

COPY of the foregoing Notice and Transcript filed electronically this 1st day of April, 2014 with:

The Office of Administrative Hearings
http:www.azoah.com

COPY of the foregoing Notice and Transcript mailed electronically this 1st day of April, 2014 to:

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By ksa
P0012013003738/3764806/ksa

IN THE OFFICE OF ADMINISTRATIVE HEARINGS

STATE OF ARIZONA

In the matter of:	) No. 14F-FSRV-003-BCS
	)
	)
KIN DAH LICHI'I OLTA', INC., a non-profit corporation, operating KIN DAH LICHI'I OLTA', a charter school.	)
	)
	)
	)
	)
	)

HEARING

Phoenix, Arizona
March 18, 2014
8:00 o'clock a.m.

Prepared by:
DEBORAH J. BOYETTE, RPR
Certified Reporter
No. 50507

ORIGINAL

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1 I N D E X

2

3 FOR THE CHARTER BOARD:

4

5 WITNESS: DeAnna Rowe

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7 EXAMINATION BY: PAGE

8 Ms. Anderson 22, 70

9 Mr. Tucker 65

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12 WITNESS: Steve Sarmento

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14 Ms. Anderson 73, 128

15 Mr. Tucker 125

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2 FOR THE CHARTER SCHOOL:

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4 WITNESS: Theresa Serapiglia Page

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6 Mr. Tucker 131

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9 WITNESS: Ora James

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11 Mr. Tucker 204

12 Ms. Anderson 212

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15 WITNESS: Christine Wallace

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17 Mr. Tucker 213

18 Ms. Anderson 221

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1 EXHIBITS MARKED

2

3 FOR THE BOARD:

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5 | Exhibits | Description | Admitted |
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8 | No. 2 | Portfolio prepared for ASBCS, 12/9/13 | 130 |
9 | No. 2A | Summary for 12/9/13 meeting | 130 |
10 | No. 2B | 9/6 & 9/13 emails and 8/30/13 email, James | 130 |
11 | No. 2C | Letter, 9/12/13, to Youvella, from Morgan | 130 |
12 | No. 2D | Letter, 10/17/13, to Youvella, from Morgan | 130 |
13 | No. 2E | DSP and SIP 2013-2014 | 130 |
14 | No. 2F | DSP Evaluation Instrument (11/14/13;11/29/13) | 130 |
15 | No. 2G | DSP Evidence Reviewed at Site Visit, 11/21/13 | 130 |
16 | No. 2H | FPREI, and KDLO Financial Response 2013-2014 | 130 |
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No. 8	Classroom Observation Walk Through Forms	130
No. 9	Report on Professional Learning Workshop	130
No. 10	2013-2014 Professional Development Plan	130
No. 11	Lesson Plan Check/Report	130

1 FOR THE CHARTER SCHOOL:

2

Exhibit	Description	Admitted
No. 1	2/24/14, AZ Education News Article	N/A
No. 2	'13-14 KDLO Charter, 7th Grade Comparison	225
No. 3	7th Grade Reading Progress, 2013-14	225
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No. 10	7th Math, NWEA, NWEA, 2013-4, Lowest 25th Percentile	225
No. 11	8th Reading: NWEA, 2013-14, Lowest 25th Percentile	225
No. 12	8th Reading, NWEA, 2013-14	225
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No. 16	2013-14 PDP	225
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1 (Exhibits cont'd.)

2 Page	Description	Admitted
3 No. 18	7th Reading Curriculum Map 2013-14	225
4 No. 19	Spring 2013 6th AIMS, Reading Strand	N/A
5 No. 20	Spring 2013 6th AIMS Math Strand	N/A
6 No. 21	2012-13 AIMS Results, 6th Grade	N/A
7 No. 22	ACS, 2013-14, Wauneka/D'Alesandro, 7th	225
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13 No. 27	2013-14 NWEA RIT Scores Fall to Winter	225
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20 No. 34	The New York Times Article, 2/16/14	N/A
21 No. 35	Item Analysis Report, 7th Grade Reading	225
22 No. 36	8th Prentice Hall Math, all students	225
23 No. 37	8th Math Growth, Lowest 25th Percentile	225

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1 A HEARING was taken upon oral examination by the
2 parties through their respective attorneys before DEBORAH J.
3 BOYETTE, RPR, a Certified Reporter in the State of Arizona,
4 at the OFFICE OF ADMINISTRATIVE HEARINGS, 1400 West
5 Washington Street, Suite 101, Phoenix, Arizona, on the 18th
6 day of March, 2014, commencing at 8:00 a.m. of said day.
7 Further, this deposition was taken pursuant to the Arizona
8 Rules of Civil Procedure.
9
10 COUNSEL APPEARING:
11
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16 R. Gehl Tucker, Esq.
HUFFORD, HORSTMAN, MONGINI,
17 PARNELL & TUCKER, P.C.
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18 Flagstaff, Arizona 86002
Attorneys for the Charter School
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20 Brian Brendan Tully
Office of Administrative Hearings
21 1400 W. Washington, Ste. 101
Phoenix, Arizona 85007
22 Administrative Law Judge
23
24
25

1 P R O C E E D I N G S

2 March 18, 2014 8:15 a.m.

3 - - -

4 ADMINISTRATIVE LAW JUDGE: This is Docket No.
5 14F-FSRV-003-BCS, before the Office of Administrative
6 Hearings, State of Arizona, in the matter of Kin dah
7 Lichi'i Olta', Inc., a nonprofit corporation, operating
8 Kin dah Lichi'i Olta', a charter school.
9 Pursuant to the Arizona State Board of Charter
10 School's Notice of Intent to Revoke Charter and Notice
11 of Hearing, this matter comes on for hearing before the
12 Office of Administrative Hearings, an independent
13 agency, today, March, 18, 2014.
14 I am Administrative Law Judge Brian Brendan Tully,
15 with the Office of Administrative Hearings.
16 The Arizona Board of Charter School is represented
17 by Assistant Attorney General Kim Anderson.
18 The Respondent is represented by its attorney, R.
19 Gehl Tucker.
20 The hearing is to determine whether grounds exist
21 to revoke the charter held by the Respondent to operate
22 the charter school.
23 I'd like to explain the procedure we're going to
24 use at the hearing today.
25 We're going to begin with the presentations. Each

1 of the parties may introduce witnesses who will testify
2 under oath or affirmation, subject, at the appropriate
3 time, to cross-examination by the opposing side.
4 "Cross-examination" means that the opposing side
5 may ask the witness questions about the witness's
6 testimony. However, it is not the time to respond,
7 debate, or get into an argument.
8 The order of presentations will be:
9 The Board, who has the burden of proof in the this
10 matter, will go first, followed by the Respondent.
11 There is a court reporter present. The court
12 reporter's transcript will be deemed the official record
13 when a copy of the transcript is filed with the Office
14 of Administrative Hearings, at the Board's sole cost and
15 expense.
16 We are also digitally recording the proceeding. I
17 would ask that you speak directly into the microphone.
18 The microphone does not amplify, but it is tied into the
19 digital recorder I have here.
20 The digital recording will be deemed the official
21 record until the transcript is filed with the Office of
22 Administrative Hearings.
23 Are there any preliminary matters?
24 MS. ANDERSON: Yes, Your Honor, there are some
25 preliminary matters with regard to the stipulation to

1 exhibits.
2 ADMINISTRATIVE LAW JUDGE: Okay.
3 MS. ANDERSON: The parties have stipulated to the
4 admission of a majority of the exhibits without the
5 requirement to lay foundation.
6 As to the Charter Board, all of the Charter Board's
7 Exhibits, No. 1 through 11, including the subparts of
8 Exhibit 2, have been stipulated to.
9 For the record, Pages BCS 000143 and 144 have been
10 removed from Exhibit 2, at Tab I, because in Bates
11 stamping them they were inadvertently included in there
12 when they actually had already been included in Tab B.
13 I just wanted to indicate those two pages to The Court.
14 With regard to the exhibits for Kin dah Lichi'i
15 Olta', the parties have stipulated to the admission of
16 all of those without the need to lay foundation except
17 for Exhibits 1, 19, 20, 21, 33 and 34.
18 For the record, Kin dah Lichi'i Exhibit 29 is the
19 same as Board Exhibit 9, and Kin dah Lichi'i Exhibit 31
20 is the same as Board Exhibit 2-E.
21 ADMINISTRATIVE LAW JUDGE: Did both sides use
22 numerical designations?
23 MS. ANDERSON: Yes, Your Honor.
24 ADMINISTRATIVE LAW JUDGE: Then let's use the
25 prefix B, for the Board, and R for the Respondent, just

1 so the record is clear.
2 MS. ANDERSON: That is the party's stipulation with
3 regard to exhibits.
4 With regard to witnesses, pursuant to Rule
5 2-19-118, I would request that the witnesses be excluded
6 from the hearing room prior to their testimony.
7 ADMINISTRATIVE LAW JUDGE: Mr. Tucker?
8 MR. TUCKER: Your Honor, that's the correct
9 stipulations that we've entered to, and I have no
10 objection to sequestration of witnesses.
11 It's my understanding that Ms. James will be
12 allowed to stay as the representative of Kin dah
13 Lichi'i, as Ms. Rowe is the representative of the Board.
14 MS. ANDERSON: Yes, Your Honor, Ms. Rowe will be
15 the representative for the Board.
16 ADMINISTRATIVE LAW JUDGE: That will work.
17 Do you want the witnesses excluded now or after --
18 I don't know if you want to make opening statements?
19 MS. ANDERSON: I do wish to make an opening
20 statement, but the witnesses are requested they be
21 excluded at this time.
22 ADMINISTRATIVE LAW JUDGE: Okay.
23 What Counsel has asked is that the witnesses be
24 excluded from the hearing room at this point except for
25 a representative for each of the parties.

1 So I'm going to ask that if you're going to be a
2 witness, if you would, wait outside.
3 There is only a small little area here. So if you
4 want and you're more comfortable, you can go down to
5 either the reception area or the first floor where you
6 have a little more elbow room.
7 All I would ask is that if you're leaving the
8 building, that you let the receptionist know so that if
9 Counsel need you for your testimony, they will know
10 where you are, okay?
11 So at this time, would you please leave.
12 (Witnesses left the hearing room.)
13 ADMINISTRATIVE LAW JUDGE: Any other preliminary
14 matters?
15 MS. ANDERSON: Not from the Board, Your Honor, no.
16 MR. TUCKER: No, Your Honor.
17 ADMINISTRATIVE LAW JUDGE: Thank you.
18 All right. We'll begin with an opportunity for
19 opening statements.
20 Does the Board wish to make an opening statement?
21 MS. ANDERSON: Yes, Your Honor.
22 ADMINISTRATIVE LAW JUDGE: You may.
23 MS. ANDERSON: Thank you.
24 Charter schools are public schools that are
25 established by a contract, also known as a charter,

1 between a sponsor and a public body, or a private person
2 or private organization.
3 The charter at issue today was entered into between
4 the Arizona State Board for Charter Schools and
5 nonprofit educational corporation, Kin dah Lichi'i
6 Olta,' to operate a charter school to serve students in
7 grades 7 and 8.
8 The charter school also goES by the name Kin dah
9 Lichi'i Olta'.
10 By its statutory definition and purpose, a charter
11 school is established to provide a learning environment
12 that will improve pupil achievement.
13 What are the mechanisms by which a charter school
14 is determined whether it is or is not improving pupil
15 achievement?
16 One mechanism is the Arizona Department of
17 Education's annual achievement profiles.
18 In November of 2001, Arizona voters approved
19 Proposition 301.
20 That, among other things, required the Arizona
21 Department of Education to develop a system to measure
22 school performance that was based on student
23 achievement, including student performance on Arizona
24 Statewide Assessment; the Arizona Instruments and
25 Measure Standards, also known as AIMS.

1 Under this system, the Arizona Department of
2 Education compiles student performance data into a
3 yearly profile for every charter school and district
4 school in the State.
5 The achievement profile classifies schools using a
6 letter grade system. A for schools that demonstrate an
7 excellent level of performance, B for schools that
8 demonstrate an above average level of performance, C for
9 schools that demonstrate an average level of
10 performance, D for schools that demonstrate a below
11 average level of performance, and an F for schools that
12 demonstrate a failing level of performance.
13 Two years ago, this letter grade system was
14 transitioned from a labeling system. The labels were:
15 Excelling, highly performing, performing,
16 underperforming, and failing to meet academic standards.
17 If a school is assigned a letter grade of D and/or
18 an underperforming label or combination for three
19 consecutive years, the Department of Education reviews
20 the school's data, provides a process through which the
21 school can appeal the assignment of the third year D,
22 present mitigating factors about its performance.
23 And if the school is not successful in its appeal,
24 then the school is assigned a letter grade of F.
25 If a charter school's assigned a letter grade of F,

1 the Department Of Education notifies the charter
2 school's sponsor, who must take action to restore the
3 school to acceptable performance or revoke the charter
4 school's charter.
5 Kin dah Lichi'i Olta' is a charter school that has
6 been assigned a letter grade of F.
7 It was assigned a letter grade of F because for the
8 year of 2010-11, it's achievement profile was a label of
9 underperforming; for school year 2011-12, its
10 achievement profile was a D; and for school year 12-13,
11 it was a third-year D that was then assigned a letter
12 grade of F.
13 Parallel to the Arizona Department of Education's
14 yearly profiling of public schools, the Arizona State
15 Board for Charter Schools also has adopted a framework
16 for the charter schools that it sponsors.
17 Its adoption of the framework sets forth the
18 academic expectations and the measurement of sufficient
19 progress toward those academic expectations.
20 The adoption of the framework is required by
21 statute. The Charter Board adopted its academic
22 performance framework in 2012.
23 Kin dah Lichi'i Olta's performance under the
24 Charter Board's academic framework is that it is a
25 school that does not meet the Charter Board's academic

1 performance expectations.
2 In fact, Kin dah Lichi'i Olta's academic
3 performance for the '12-13 school year falls far below
4 the academic performance expectations of the Charter
5 Board.
6 Kin dah Lichi'i Olta's academic performance in
7 2012-2013 school year is preceded by its academic
8 performance for the 2011-12 school year under the
9 Board's framework, which was that it did not meet the
10 Board's academic performance expectations, nor was Kin
11 dah Lichi'i Olta' able to demonstration that it is
12 making sufficient progress toward those academic
13 performance expectations.
14 Kin dah Lichi'i Olta' failed to demonstrate in its
15 implementation of a system of curriculum, instruction,
16 student assessment tools and professional development
17 that this had a system that worked together such that
18 the school could demonstrate measurable improvement in
19 student academic growth and proficiency.
20 Because of Kin dah Lichi'i Olta's letter grade of
21 F, its worsening failure on the scale to meet the
22 Charter Board's academic performance expectations, and
23 its failure to demonstrate sufficient progress toward
24 meeting those academic performance expectations, the
25 Charter Board voted to issue a Notice of Intent to

1 Revoke the charter of Kin dah Lichi'i Olta'.
2 In this hearing, you'll hear from DeAnna Rowe. She
3 is the Charter Board's executive director, and she will
4 take you through the Charter Board's academic
5 performance framework, the mechanisms by which the
6 Charter Board identifies its academic performance
7 expectations, and the process for schools that don't
8 meet those expectations to be able to demonstrate
9 sufficient progress.
10 She'll take you through the detail of Kin dah
11 Lichi'i Olta's failed performance under the Charter
12 Board's academic performance framework.
13 You'll also hear from Steve Sarmento. He's the
14 Charter Board's program and project specialist, and
15 he'll take you through his evaluation of Kin dah Lichi'i
16 Olta's curriculum, instruction, student assessment
17 tools, and professional development, and student growth
18 and proficiency data, and his findings upon which the
19 Board determined that Kin dah Lichi'i Olta' failed to
20 demonstrate sufficient progress and its charter should
21 be revoked.
22 At the conclusion of the hearing, the Board is
23 confident that you will find that the Board has
24 established that Kin dah Lichi'i Olta' failed to meet
25 the Board's academic performance expectations or make

1 sufficient progress toward those expectations and that
2 their charter should be revoked.
3 Thank you.
4 ADMINISTRATIVE LAW JUDGE: Thank you.
5 Mr. Tucker.
6 MR. TUCKER: Thank you, Your Honor.
7 I believe much of what we'll hear today will have a
8 unique overlay, an overlay of Navajo.
9 Navajo compromises a large area in the Four Corners
10 area. It's an extremely remote area. Homes are remote,
11 often on dirt roads that are washed out or filled with
12 snow.
13 It's not uncommon for children not to have
14 electricity or running water in their residence.
15 Extreme unemployment, in excess of 20 percent.
16 Dysfunctional and sometimes violent families.
17 This is our context, and this is part of our
18 story. It's not an excuse, and we are not looking for
19 sympathy for that, but it is reality.
20 The reality has led to a point where we believe
21 that we want standards and we need standards, but we
22 need standards that are related to our environment.
23 Four out of the five Navajo charter schools are
24 revoked or being revoked.
25 In my opinion, which doesn't matter much, it's not

1 because they're bad schools and it's not because they're
2 bad kids.
3 It's because I think there is a sample that's not
4 dealt with in the numbers and ratings and so forth.
5 KDLO has performed -- that's our abbreviation for
6 Kin dah Lichi'i Olta'.
7 KDLO has performed in the past. It has failed
8 recently, and failed miserably. KDLO -- when the Board
9 found out, it took significant action.
10 One of the things they've done is rehired Ms. Ora
11 James, who was principal at KDLO when it was performing,
12 and she has initiated and is determined to change, and
13 the school is in the midst of change.
14 It's unfortunate that we're here because there's
15 been lots of good work. The school has really turned
16 the corner, created change, and we'll tell you about
17 that.
18 But I also acknowledge that the Charter Board has
19 done its work, and they have a hard job, a difficult
20 job.
21 Put together an academic performance framework and
22 guidance that, for the most part, is excellent. I'm not
23 sure it includes our type of people or our type of
24 students, and I think it even allows for us -- and it's
25 in Exhibit 1, the last page, Page 23.

1 ADMINISTRATIVE LAW JUDGE: The Board's Exhibit 1 or
2 the Respondent's Exhibit 1?
3 MR. TUCKER: I'm sorry, Your Honor.
4 It's the Board's Exhibit 1.
5 ADMINISTRATIVE LAW JUDGE: Thank you.
6 MR. TUCKER: You're welcome.
7 On Page 23.
8 The phrase that caught my eye and I think is
9 applicable is in the last paragraph, starting with the
10 second sentence:
11 However, it is important to keep in mind that
12 making complex judgments about school performance often
13 requires a nuance of understanding of the school's
14 outcomes that may be obscured by an oversimplified
15 grading scale.
16 The academic framework provides an effective means
17 to use ratings, in quotes, to flag a school for certain
18 consequences, and then make a judgment about how to
19 apply the consequences, all things considered.
20 So KDLO has been flagged, and now we're at the
21 stage of consequences, when we have to consider all
22 things.
23 We believe when Your Honor sees what has been
24 done. And when all things are considered, that you will
25 agree that KDLO deserves another chance to make good and

1 meet these standards.
2 Thank you, Your Honor.
3 ADMINISTRATIVE LAW JUDGE: Thank you, sir.
4 Both sides having concluded their respective
5 opening statements, we will now go to the presentations.
6 We will begin with the Board.
7 Call your first witness.
8 MS. ANDERSON: Yes, Your Honor.
9 The Board calls DeAnna Rowe.
10
11 DEANNA ROWE,
12 having been first duly sworn upon her oath by the Notary
13 Public to speak the truth and nothing but the truth, was
14 examined and testified as follows:
15
16 EXAMINATION
17 BY MS. ANDERSON:
18 Q. Please state your name for the record.
19 A. DeAnna Rowe, R-o-w-e.
20 Q. Where are you currently employed?
21 A. At the State Board for Charter Schools.
22 Q. In what position?
23 A. I'm the executive director.
24 Q. How long have you been employed at the Arizona
25 State Board for Charter Schools?

1 A. For almost 13 years now.
2 Q. What is your educational and professional
3 background and experience?
4 A. My educational background, I have a bachelor's
5 degree in business administration; and I have a master's
6 degree in education, focused on curriculum and instruction.
7 Professionally, I was a high school teacher for 10
8 years prior to developing and operating a charter school for
9 four years before coming to work for the Board.
10 Q. What are your duties in your current position?
11 A. As the executive director, I have responsibility
12 for the overall operations of the agency and its reporting
13 environments, and it is my responsibility to ensure that the
14 Board's operations and policies are implemented according to
15 their desires.
16 Q. As part of your duties, are you charged with
17 monitoring the academic performance of charter schools that
18 are sponsored by the Charter Board?
19 A. I am.
20 Q. Are you familiar with the charter school Kin dah
21 Lichi'i Olta'?
22 A. Yes.
23 Q. Does Kin dah Lichi'i Olta' operate as a charter
24 school pursuant to a charter contract between Kin dah Lichi'i
25 and the State Board for Charter Schools?

1 A. Yes, it does.
2 Q. When did -- and I'll probably use the term "KDLO"
3 to refer to Kin dah Lichi'i.
4 When did KDLO first begin operating a charter
5 school pursuant to a charter contract with the Charter Board.
6 A. That was in 1999.
7 Q. Who is KDLO's current charter representative?
8 A. The contract reflects two charter representatives,
9 Ronald Arias and Linda Youvella.
10 Q. What are the duties and responsibilities of the
11 charter representative?
12 A. The charter representative is the individual or
13 individuals who have direct responsibility or authority to
14 contract on behalf of the entity.
15 Because they have that authority and are identified
16 as our primary source of contact, all communication regarding
17 the charter is directed to the charter representative.
18 And because of that communication, there is an
19 expectation that the charter representative will convey any
20 compliance matters and respond accordingly to any compliance
21 matters that are brought before it.
22 Q. What grades does KDLO serve?
23 A. KDLO serves 7th and 8th grade.
24 Q. Where is the school located?
25 A. The school is actually located east of Ganado, on

1 the Navajo reservation.
2 To put it geographically, it is east of
3 Flagstaff -- northeast of Flagstaff.
4 Q. Approximately how many students does KDLO report
5 are currently attending their school?
6 A. There are about 37.
7 Q. Does the Arizona Department of Education compile
8 achievement profiles for all Arizona charter schools and
9 school districts?
10 A. Yes, it does.
11 Q. Is this done on a yearly basis?
12 A. Yes, it is.
13 Q. Is the Department of Education's assignment of an
14 achievement profile based in part on the academic progress or
15 the growth of -- made by pupils at the particular school?
16 A. Yes.
17 About 50 percent of the profile is based on
18 academic growth.
19 Q. Is Department of Education's assignment of an
20 achievement profile also based in part on students
21 performance on standardized State testing?
22 A. Yes.
23 The other half is based on proficiency.
24 Q. In the assignment of an achievement profile, are
25 schools currently assigned letter grades?

1 A. Yes, they are.
2 Q. What grades can be assigned?
3 A. A school can earn an A, a B, a C, a D, or an F.
4 Q. If a school is assigned a letter grade of D under
5 Department of Education's annual achievement profile, does it
6 mean that the school demonstrates at a below average level of
7 performance?
8 A. That's correct, yes.
9 Q. Prior to the assignment of letter grades, did the
10 Department use a different classification?
11 A. They did, yes.
12 We called those legacy labels.
13 Q. What were those labels?
14 A. The legacy labels were excelling, highly
15 performing, performing, underperforming, or failing to meet
16 the standards.
17 Q. And then the Department of Education transitioned
18 from using these legacy labels, these descriptive labels, to
19 letter grades?
20 A. That's correct.
21 Q. Are a school's letter grades published by the
22 Department of Education in the late summer or early fall of
23 each year?
24 A. Yes, they are.
25 Q. In October of 2011, what achievement profile was

1 assigned to KDLO by the Arizona Department of Education?
2 A. In 2011, KDLO was assigned an underperforming
3 profile.
4 Q. Was the underperforming profile representative of
5 KDLO's academic performance during the 2010-2011 school year?
6 A. Yes, that is correct.
7 Q. In August of 2012, what academic profile was
8 assigned to KDLO by the Arizona Department of Education?
9 A. In 2012, is that what you're asking me?
10 Q. Yes.
11 A. In 2012, it was a letter grade of a D.
12 Q. Was the letter grade of D representative of KDLO's
13 academic performance during the 2011-2012 school year?
14 A. Yes, it was.
15 Q. Is it possible for a school to be assigned a letter
16 grade of F?
17 A. Yes, it is.
18 Q. How does that occur?
19 A. After a school has received three letter grades of
20 a D or a combination in the transition phase of an
21 underperforming profile, and then two letter grades of a D,
22 the Department then determines whether or not that letter
23 grade of a D should be reassigned to something else and could
24 be assigned a letter grade of an F.
25 Q. Does an achievement profile of F demonstrate that

1 the school is demonstrating a failing level of performance?
2 A. Yes.
3 Q. If a charter school is assigned a letter grade of
4 F, then what happens next?
5 A. Pursuant to statute, if a charter school is
6 assigned a letter grade of an F, the Board must be notified
7 and must make a determination of whether to restore the
8 charter school to acceptable performance or to revoke the
9 charter.
10 Q. In September of 2013, was the Charter Board
11 notified by the Department of Education that KDLO had been
12 assigned a letter grade of F?
13 A. Yes.
14 Q. Was that letter grade of F representative of KDLO's
15 academic performance during the 2012-2013 school year?
16 A. Yes, it was.
17 Q. Could you please refer to Board's Exhibit 2-B.
18 What is contained in Exhibit 2-B?
19 A. 2-B contains two separate correspondence.
20 The first correspondence is e-mail between Martha
21 Morgan, who was the director of charter accountability for
22 the Board, asking Robert Gray, who is the director of
23 operations at the Department of Education and in charge of
24 school improvement, for documentation that would provide
25 information regarding the schools that had been notified by

1 the Department that they had earned a letter grade of an F.
2 On Page 61 is a separate correspondence that was
3 provided to the Board.
4 It is a copy of a letter that was sent to Ora
5 James, who is the principal at KDLO, from Robert Gray, the
6 director of operations in charge of school improvement at the
7 Department of Education, that specifically tells the school
8 that as a result of the committee's deliberations referencing
9 the appeal process it was provided, KDLO will now have a
10 State accountability level of an F.
11 Q. Just for the record, when you refer to the page
12 number, we'll be referring to the page numbers at the bottom
13 right-hand corner of the page that's preceded by the letters
14 BCS, correct?
15 A. That's correct.
16 Q. How does the Charter Board determine which action
17 it will take with regard to an F school, whether to restore a
18 failing charter school to acceptable performance or to revoke
19 a charter school's charter?
20 A. The Board has established a Demonstration of
21 Sufficient Progress process that is provided to the charter
22 school.
23 It's an opportunity for them to demonstrate the
24 effort that has been made to meet or demonstrate progress
25 toward the Board's academic performance expectations.

1 Q. With regard to the Charter Board's academic
2 performance expectations of the charter schools that it
3 sponsors, has the Charter Board developed an academic
4 performance framework?
5 A. It has, yes.
6 Q. And why has it developed that framework?
7 A. The Board was statutorily charged with creating a
8 performance framework for measuring the performance of its
9 schools that it sponsors.
10 Q. And what is the purpose of the academic framework?
11 A. The purpose of the framework is to communicate the
12 academic expectations of the Board to inform stakeholders of
13 the expectations of the charter holders in the Board's
14 portfolio that would provide them an opportunity to -- it
15 lays out the academic expectations and provides the
16 measurable objectives which must be met.
17 Q. Would you please refer to the Board's Exhibit 1.
18 What is contained in the Board's Exhibit 1?
19 A. Exhibit 1 is the academic performance framework and
20 guidance as it was adopted by the Board.
21 Q. What's communicated through the academic
22 performance framework and guidance that's in the Board's
23 Exhibit 1?
24 A. The academic performance framework and guidance
25 document provides both the academic expectations that are

1 expected as well as the measures of those academic
2 expectations.
3 So what the Board is looking at, how it's going to
4 measure what it's evaluating, the measurable outcomes.
5 And then it also provides for the process and the
6 description of a charter holder that doesn't meet the Board's
7 academic performance expectations, the criteria which will be
8 evaluated to determine whether sufficient progress has been
9 demonstrated.
10 Q. How was the academic performance framework that is
11 Exhibit 1 developed?
12 A. The framework was developed, evaluating best
13 practices of other charter operators across the country.
14 The Board enlisted its academic subcommittee to
15 review those best practices.
16 It engaged stakeholders to assist in the
17 identification of the indicators, the measures, the metrics,
18 and the targets that would be used in evaluating the
19 measurable objectives that were set.
20 And then the subcommittee also looked at the
21 methodology that would be used in calculating the measures
22 and the use of AIMS data toward those calculations.
23 After the subcommittee met a number of times to
24 review and establish its recommendation, the framework was
25 adopted by the full Board.

1 Q. When you say "stakeholders," who are you
2 referencing?
3 A. Stakeholders included a variety of people, but
4 specifically charter authorized representatives, charter
5 representatives who have a stake in meeting the Board's
6 academic expectations.
7 Q. How is the academic performance framework used by
8 the Charter Board?
9 A. The framework itself is used by the Board to
10 evaluate those measurable outcomes and to determine whether
11 or not a charter school has met the academic expectations
12 specifically when it comes to high stakes decisions.
13 So it's used in conducting interval reviews, and
14 it's also considered in the determination of expansion
15 requests, whether a charter should be renewed, and if a
16 charter should be in a position where there is a question of
17 whether the charter should be revoked, as in this case with
18 KDLO.
19 Q. In referencing Board's Exhibit 1, can you -- how is
20 the document organized?
21 A. The document is organized, specifically, first in
22 listing, generally speaking, the process that is used in
23 establishing indicators, measures, metrics, and the targets.
24 And then there is a section that describes how the
25 framework is used.

1 And then followed by the determinations of an
2 explanation of how the weighting is applied, what a dashboard
3 would look like, and then actual examples of the framework
4 itself in a table format for the various indicators and the
5 measures.
6 And then it's followed by a section for the process
7 that's used for how the intervention schedule would be
8 applied, as well as the process for demonstrating sufficient
9 progress if Board's academic expectations have not been met.
10 Q. So the Board uses indicators -- starts off with the
11 use of indicators to evaluate a charter school's academic
12 performance?
13 A. It does, yes.
14 Q. What are the indicators that the Board uses?
15 A. There are four indicators.
16 The first one is student progress over time with a
17 measurement of growth.
18 The second one is student achievement or
19 proficiency, which is the demonstration of the mastery of the
20 State standards.
21 The third one is the A through F letter grade as it
22 occurs in the State accountability system.
23 And the fourth one is post-secondary readiness,
24 which is used specifically for high schools, or schools
25 serving grades 9 through 12.

1 Q. Within these four indicators, does the framework
2 also provide a number of measures to evaluate the school?
3 A. It does, yes.
4 Q. Are the results of a charter school's performance
5 within each of these indicators incorporated into a graph
6 that demonstrates the school's performance in these areas?
7 A. It is, yes.
8 Q. What is the graphic called?
9 A. The graphic is referred to as their academic
10 dashboard.
11 Q. Would you please refer to the Board's Exhibit 3.
12 And what is contained in that exhibit?
13 A. This is the academic dashboard for Kin dah Lichi'i
14 Olta', reflecting their performance in accordance with the
15 Board's measures for the 2012 and the 2013 school year.
16 Q. Does KDLO's dashboard identify the three indicators
17 that you testified are used to evaluate the academic
18 performance of a school that serves other than grades 9
19 through 12?
20 A. It does, yes.
21 Q. Where are those three indicators reflected on the
22 dashboard?
23 A. The three indicators are identified in the
24 dashboard numerically.
25 So we have No. 1, which is shortened, for table

1 purposes, to just reflect growth, which is a growth or
2 student progress over time.
3 No. 2 is proficiency, which is the percent passing
4 or the percent of students that are demonstrating mastery of
5 the State standards.
6 And then the third one is the State accountability
7 the A through F letter grade.
8 Q. While we will go into the indicators and measures
9 in more detail shortly, what are, briefly, the measures used
10 within each of these three indicators?
11 A. So under the growth measure, we have an SGP, which
12 stands for Student Growth Percentile.
13 1-A SGP is the overall growth or the improvement of
14 a school's student performance over time.
15 1-B SGP, bottom 25 percent, refers to the academic
16 growth and improvement of students who specifically were the
17 poorest performing students at the beginning of the year
18 based on the prior year AIMS scores or per state assessment
19 results.
20 Under proficiency, we have five measurements. The
21 first one being percent passing, which is the overall percent
22 passing for the school in comparison to the State.
23 And I should say, in each of these measures, we
24 look separately at the performance of the students in math
25 and reading.

1 Then 2-B is the composite school comparison, which
2 is a virtual comparison of the school's performance to like
3 subgroups.
4 And then 2-C is broken out into three separate
5 areas.
6 ELL is English Language Learners, which are
7 students who are deficient in speaking or reading English.
8 We have the free and reduced -- FRL is free and
9 reduced lunch eligible students based on income.
10 And then subgroup SPED refers to Special Education
11 or Disabled students.
12 And then we have the on measure under State
13 accountability, which is the State's letter grade.
14 Q. And why are the measures focusing on math and
15 reading?
16 A. Math and reading are the two content areas that are
17 assessed statewide at each grade level, 3 through 8.
18 Q. What is the source of the data or the numbers that
19 are contained in the measure columns of the dashboard?
20 A. The data comes from both the school's individual
21 student academic data or performance on the State
22 assessments, as well as the statewide data for student
23 performance on the State assessment.
24 Q. When do schools first have access to their
25 statewide assessment data at the student level?

1 A. The test results are available to the school,
2 generally, in early June.
3 Q. How do charter schools access their academic
4 performance rating, also known as the dashboard?
5 A. It's available through our website.
6 Q. Can the public access charter school's dashboards
7 as well?
8 A. They can, yes.
9 Q. Does the academic framework and the dashboard rate
10 each school's performance within each of these measures?
11 A. Yes, it does.
12 Q. For the ratings of the individual measures, what
13 rating categories does the Board use?
14 A. The Board uses an exceeds, a meets, a does not
15 meet, or a falls far below the standard.
16 Q. And if you would, please, refer to the Board's
17 Exhibit 1, Page BCS6.
18 At the top of the page, where the bullets are
19 contained, are those ratings you just described -- the
20 ratings that you just named, are those described at the top
21 of Page 6 of Board's Exhibit 1?
22 A. Yes, they are.
23 Q. Are those ratings color coded in the dashboard
24 that's Exhibit 3?
25 A. They are, yes.

1 If a school exceeds the standard in a measure, it's
2 demonstrated with a dark green.
3 If they were to have a measure that met the
4 standard, it would be light green.
5 If they are does not meet the standard, it's in
6 pink.
7 And a falls far below the standard is color coded
8 red.
9 Q. Are the ratings and the colors that reflect KDLO's
10 performance in each of the dashboards, indicators, and
11 measures accurately reflected on the dashboard that's Board's
12 Exhibit 3?
13 A. Yes.
14 Q. Does the Board's academic framework and dashboard
15 also provide for an overall rating of the school's academic
16 performance?
17 A. It does, yes.
18 Q. For the overall rating, what categories does the
19 Board use?
20 A. Categories of the same that we use for each of the
21 measures.
22 So a school could have an overall rating of exceeds
23 the standard, meets the standard, does not meet the standard,
24 or falls far below standard.
25 Q. If you refer to exhibit -- Board Exhibit 1, at Page

1 17, in the table in the middle of the page are the overall
2 ratings described in this table?
3 A. Yes.
4 Q. Is a school's overall rating also color coded on
5 the dashboard that's Exhibit 3?
6 A. They are.
7 The color coding is the same as they are for each
8 of the measures.
9 An exceeds, again, is dark green. A meets is a
10 light green. Does not meet is a pink. And falls far below
11 would be red.
12 Q. As we talk about the contents of KDLO's dashboard,
13 if you could, refer to Board's Exhibit 3.
14 Let's talk about the growth indicator.
15 What is being measured in the growth indicator of
16 the Board's dashboard?
17 A. The growth measure looks at and evaluates the
18 school's success in improving the academic learning of a
19 student over the course of the year.
20 And it does that by identifying and matching the
21 students at the school to their academic peers.
22 So it matches students who were academically like
23 them, meaning, scored at the same level on prior year AIMS
24 tests, and then aligning their -- looking at their
25 improvement -- each student's improvement based on their

1 performance on the subsequent test given at the end of the
2 year, how well those students performed in comparison to
3 their academic peers.
4 Q. Does the student have to be in attendance at the
5 school for a particular period of time before their
6 assessment results are included in the dashboard?
7 A. Yes.
8 The dashboard and the calculations only consider
9 students who were enrolled at the school for a full academic
10 year.
11 Q. Is that the same for the students inclusion in the
12 Arizona Department of Education achievement profile system,
13 they have to be students who were there for a full academic
14 year?
15 A. Yes.
16 There is a definition for -- we call them FAY, Full
17 Academic Year -- FAY students, and those students are
18 enrolled within the first 10 days of school, and they stay
19 continuously enrolled up to and including the first day of
20 the State assessments.
21 Q. What is the significance of distinguishing between
22 FAY and nonFAY students?
23 A. While a school is charged with educating all
24 students that come through its doors, you want to be sure
25 that, in considering the academic performance expectations of

1 a school, that you specifically give them credit for those
2 students who have been enrolled for the entire year.
3 And so by only including those full academic, or
4 FAY, students, you're evaluating the success of the school in
5 educating those students who are actually enrolled at the
6 school for the entire school year.
7 Q. Within the growth indicator on the dashboard,
8 there's two measures, 1-A SGP and 1-B SGP, bottom 25 percent.
9 What are those measures?
10 A. The first one, 1-A SGP, is the overall performance,
11 so it includes all full academic year students from the
12 school in comparison to the their academic peers.
13 1-B, the SGP bottom 25, again, looks at the overall
14 academic performance, but looks specifically at those
15 students who were identified as being in the bottom
16 percentile of performance based on their year assessments.
17 Q. Why, in this dashboard, is there an "NR" in the SGP
18 bottom 25 percent measure?
19 A. An "NR" will be used in the dashboard for two
20 purposes.
21 The first purpose would be: If there are less than
22 11 students identified within that measure to protect the
23 personally identifying information of those students, we
24 can't include a number that would be calculated using less
25 than 11 students.

1 The other reason for an NR would be if in fact
2 there was a subgroup that had no students represented.
3 Q. For Kin dah Lichi'i Olta', the NR in the SGP bottom
4 25 percent, is that because of -- because they had no
5 students in the bottom 25 percent, or because there was just
6 too few numbers of students in that measure to include them
7 in the dashboard?
8 A. They do in fact have students in the bottom 25
9 percent.
10 But because of the size of the school, there are
11 too few students to include in that bottom 25 percent
12 measure.
13 Q. Is the Board's framework inclusion and use of
14 student growth percentile in determining a school's academic
15 performance something that's unique to the Charter Board?
16 A. No, it's not.
17 In fact, there are a number of States that have
18 incorporated a growth percentile process very similar to the
19 State's process.
20 There's the Charter Board's process.
21 And the Department of Education and, specifically,
22 the State Board of Education included the student growth
23 percentile in its calculations of the A through F letter
24 grades.
25 Q. What is the range of scores that a school can

1 receive in the SGP, student growth percentile, measure?
2 A. The range of scores is between 1 and 99.
3 Q. What the 1 versus 99 represent?
4 A. A one would be in the poor performing.
5 And the higher of the number, the higher the
6 percentile rating of that student.
7 Q. What would the SGP that would meet or exceed the
8 Board's standards in this measure under its academic
9 performance framework with?
10 A. The Board set a standard for student growth
11 percentile of 50.
12 Q. Why?
13 A. 50 represents a number -- when you look at the
14 median SGP, an SGP of 50 would mean that, in assessing your
15 school's academic performance, at least -- well, 50 percent
16 of your students performed at least as well as or better than
17 their academic peers.
18 Q. In referring to KDLO's dashboard that's in Board's
19 Exhibit 3, what does KDLO's SGP of 39 for math for 2013 mean?
20 A. A 39 would mean that the median growth percentile
21 of the KDLO students was 39.
22 So if you look at that comparatively, then, you
23 would say that 61 percent of those students academic peers
24 outperformed the KDLO students.
25 Q. And that would be outperform them on the statewide

1 assessment, AIMS; is that correct?
2 A. Yes.
3 So they made more improvement than their -- their
4 peers made more improvement than they did over the course of
5 the year.
6 Q. What does, on the dashboard, KDLO's SGP of 23 on
7 reading mean?
8 A. Similarly, the SGP of 23 indicates the median
9 growth percentile for the KDLO students, which then indicates
10 that KDLO students were outperformed by 77 percent of their
11 academic peers.
12 Q. If you would, please, refer to the Board's Exhibit
13 1, at Page 8.
14 At the top of the page, does the Board's framework
15 identify the median standard growth percentiles that a
16 charter school must receive in order to fall within one of
17 the four standards, or four ratings?
18 A. Yes, it does.
19 Q. As reflected in KDLO's dashboard, Board Exhibit 3,
20 for 2013, KDLO's overall SGP for math did not meet the
21 Board's standard for math; is that correct?
22 A. That's correct.
23 Q. And that's reflected by the color code of pink,
24 correct?
25 A. That's correct.

1 Q. And as reflected in KDLO's dashboard, that's
2 Board's Exhibit 3, KDLO's overall student growth percentile
3 for reading fell far below the Board's standard; is that
4 correct?
5 A. That's correct as well.
6 Q. That's reflected by the color coding of dark red?
7 A. Yes.
8 Q. Are students at KDLO making adequate student growth
9 based on their median student growth percentiles?
10 A. No, they're not.
11 Q. In the box in the dashboard that's Board's Exhibit
12 3 for proficiency, there's five measures within the
13 proficiency indicator.
14 What is being measured by the indicator
15 proficiency?
16 A. Proficiency measures the percent of students who
17 pass the AIMS test, so that -- that meet the State standards
18 in reading and math for their grade level assessment.
19 Q. As it did with the measures within the indicator of
20 SGP, does the Board's academic performance also identify the
21 proficiency rates that a charter school must receive in each
22 of these measures in order to fall within one of the four
23 ratings of falls far below, or does not meet, or meets?
24 A. Yes.
25 Q. Where in the framework is that located?

1 A. The proficiency section begins on Page BCS9, and
2 includes the percent passing overall on Page 10, the
3 composite comparisons on Page 11, and the subgroup
4 comparisons on Page 12.
5 Q. In the proficiency indicator, the particular
6 measure to a percent passing, what is being measured in that
7 by percent passing?
8 A. When we look at percent passing, we're looking at
9 the students that were full academic year students at the
10 school by their grade level, and comparing their percent
11 passing to the overall percent passing or students that
12 passed the AIMS test for statewide at those same grade
13 levels.
14 Q. So KDLO is a charter school serving grades 7 and 8
15 is being compared to the percentage of the schools statewide
16 that also serve grades 7 and 8 in terms of their students
17 passing AIMS?
18 A. Their students, yes, are being compared to all
19 other 7th and 8th grade students in the State.
20 Q. What do the numbers in the box titled 2-A percent
21 passing for math, which is 22/61.1?
22 What do those numbers mean?
23 And the number underneath, which is 27/77.7, mean?
24 A. The 22/61.1 for math specifically means that the
25 percent of students passing the AIMS test for the KDLO

1 students was 22 percent.
2 Whereas, when you look at the proficiency rate or
3 the percent of students passing the AIMS test for 7th and 8th
4 grade across the State is 61.1 percent.
5 Similarly, for reading, the 27 represents that the
6 percent of students passing their AIMS reading test for 7th
7 and 8th grade for KDLO students is 27 percent.
8 Conversely, the State passing rate for 7th and 8th
9 graders is 77.7 percent.
10 Q. What is the proficiency level that would meet the
11 Board's standard in this measure under of the Board's
12 academic performance framework?
13 A. In order to meet the Board's expectations, the
14 school would need to be performing at least as well as the
15 overall percent passing for the State.
16 So in this case, in order to meet, the school would
17 have to be at a 61.1 or better for math.
18 Q. And as reflected in the KDLO dashboard, that is the
19 Board's Exhibit 3, for 2013, the percent of students passing
20 statewide assessments at KDLO in both math and reading did
21 not meet the Board's standard under the academic framework in
22 this measure; is that correct?
23 A. That's correct.
24 It's color coded in the pink.
25 Q. Moving on to the measure 2-B, composite school

1 comparison.

2 What is being measured in the composite school

3 comparison measure?

4 A. The composite school comparison is another way of

5 looking at the percent passing, but understanding that the

6 varying subgroups can have an impact on the performance.

7 A composite school is a virtual composite

8 development of like students.

9 So comparing the schools demographic, including

10 their English language learner, their free and reduced lunch

11 eligible students, and special education population, compared

12 in students across the State, in those same grade levels,

13 having those same characteristics, and evaluating how well

14 the schools's performance was compared to what the overall

15 group would be.

16 And so we set that and say that if a school is

17 doing as well as expected, then their composite school

18 comparison score would be a zero, meaning that they were on

19 par with the similar virtual composite group.

20 Q. So the school can receive a positive or a negative

21 number in the composite school comparison measure?

22 A. That's correct.

23 Q. What does it mean, then, for a school to receive a

24 positive versus a negative number?

25 A. If a school receives a positive number, then

1 they're doing better than what would be expected based on the
2 performance of that similarly characterized group of
3 students.
4 And if they have a negative number, then they're
5 not doing as well as you would expect them to do based on the
6 performance of other students with similar characteristics.
7 Q. So what is the proficiency level that would meet
8 the Board's standard?
9 A. In order to meet, you would be a zero or better.
10 Q. In looking at KDLO's dashboard, that's Board
11 Exhibit 3, in the composite school comparison for 2013, KDLO
12 scored a negative 35.4 in math and a negative 49.1 in
13 reading.
14 As a result of its performance on those measures,
15 did KDLO rate far far -- rate fall far below standard in both
16 of those measures under the Board's academic performance
17 framework?
18 A. It did.
19 So a zero would have met. Up to a negative 15
20 would have been a does not meet.
21 So they're significantly below even the does not
22 meet category.
23 Q. In addition to evaluating school level proficiency,
24 does the framework also look at the performance of various
25 subgroups within the school?

1 A. Yes, it does.
2 Q. Are those the subgroups you discussed earlier, the
3 ELL, English Language Learner; FRL, free and reduced lunch
4 eligible students; or SPED, the disabled students?
5 A. Yes, it does.
6 Q. Why does the Board's framework include these
7 subgroups of students?
8 A. It's possible, depending upon the size of the
9 overall population and the size of the subgroup, that the
10 overall performance of a school can mask the performance of
11 these subgroups.
12 And just based on the academic challenges or
13 deficits that these subgroups tend to bring to the classroom,
14 it's appropriate to evaluation how well the school is doing
15 with these subgroups of students, as well as the overall
16 population.
17 Q. In 2013, KDLO received an NR for the measures of
18 the ELL and the SPED subgroups.
19 Why is that?
20 A. For the ELL subgroups, specifically, in reporting
21 its students to the State in the submission of its student
22 assessment data, it did not identify any students as English
23 Language Learners, so there were no students identified for
24 the ELL subgroup.
25 And for special education, the NR is reflective of

1 a number that is lower than 11 and is not included to protect
2 identifying information of specific children.
3 Q. In looking at the free or reduced lunch subgroup,
4 the numbers are represented by -- there's two numbers
5 separated by a slash, and what do those numbers mean?
6 A. Very similar to the percent passing, the first
7 number represents the school's percent passing for that
8 identified subgroup.
9 And then following the slash, the second number is
10 the percent passing of, again, 7th and 8th grade students
11 because we're only looking for students in the same
12 population.
13 And so it's 7th and 8th grade students that are
14 free and reduced lunch eligible across the State
15 comparatively.
16 So you can see that, specifically, in math, for
17 this subgroup population, 22 percent of the students were
18 passing.
19 Whereas, if you look at the subgroup of free and
20 reduced lunch eligible students across the State in 7th and
21 8th grade, over 50 percent of those students passed.
22 And then in reading, the school's number is 27,
23 while the State number is 71.
24 So actually, the State performed twice as well as
25 the school does with this subgroup.

1 Q. What is the proficiency level that would meet the
2 Board's standard in this measure -- subgroup measures under
3 the Board's academic performance framework?
4 A. In order to meet the expectations, the school would
5 perform at least as well as the State subgroup.
6 Q. As a result of KDLO's proficiency performance in
7 its free and reduced lunch subgroup in both math and reading,
8 did KDLO rate as does not meet standard in both of these
9 measures under the Board's Academic Framework?
10 A. Yes, it did.
11 Q. You previously testified that the State
12 accountability indicator, the letter grade, takes -- the
13 Board's academic framework takes into consideration the
14 letter grade.
15 How does it do that?
16 A. In the State accountability, Section No. 3 of the
17 framework, the school is given credit for its performance,
18 the letter grade that it receives.
19 If had it had an A, it would exceed the
20 expectations. If it had a B, it with meet the expectations.
21 The Board does not consider average performance as
22 meeting the expectations. So a C letter grade would be a
23 does not meet.
24 And a D and an F are both designated as falling
25 below the Board's expectations.

1 Q. The State accountability letter grade of A or B
2 would meet the Board's standards in this measure?
3 A. Yes.
4 Q. For this measure, does KDLO's D in 2012 put it
5 within the does not meet standards in that measure?
6 A. Actually, a D would put it in the falls far below.
7 Q. Excuse me.
8 And then the F, as well, for 2013, does that put
9 KDLO in the falls far below standard in this measure?
10 A. Yes, it does.
11 Q. How is the overall rating of a Dashboard derived?
12 A. For each of the measures within the indicators, the
13 Board assigns points.
14 So if you exceed in a measure, it's worth 100
15 points. If you meet, it's worth 75 points. A falls far
16 below is worth 50 points -- I'm sorry.
17 A does not meet is worth 50 points, and a falls far
18 below is worth 25 points.
19 And then when the Board developed its framework, it
20 also identified the weighting for each of the categories.
21 And so in order to calculate the overall rating,
22 the points are assigned, the weights are applied, and a
23 number is generated based on that formula.
24 And then that number fits into the overall rating
25 scale that was adopted as part of the framework.

1 Q. In Board Exhibit 3, at the bottom of the page, for
2 2013, KDLO's overall rating of 38.75, does that put KDLO into
3 the falls far below standard for the overall rating?
4 A. Yes, it does.
5 Q. What does that mean under the Board's academic
6 framework?
7 A. An overall rating of a falls far below means that
8 the school did not meet the Board's academic expectations.
9 In fact, it fell far below its expectations and is in fact on
10 par with the poorest performing schools in the State.
11 Q. How does a charter school's overall rating fit in
12 with, under the Board's academic framework, how a school
13 meets or does not meet the academic standards?
14 A. The overall rating is used in determining the
15 academic performance of a charter by looking at the two
16 years -- the most recent two years of academic performance.
17 So it would look at, in this case, the 2012
18 performance and '13 performance.
19 In order to meet the Board's academic performance
20 expectations for a charter holder, all schools operated by
21 the charter holder must meet in the last two years where an
22 overall rating has been created.
23 Q. When you use the term "charter holder," in this
24 case, you're referring to the corporation, KDLO, that
25 operates the charter school?

1 A. Yes.
2 Q. With an overall rating of does not meet standard
3 for 2013 and a does not meet in 2012, did KDLO meet the
4 Board's academic performance expectations?
5 A. With a falls far below and a does not meet, no, it
6 does not.
7 Q. If a charter school does not meet the Board's
8 academic performance expectations, what happens next?
9 A. When a charter school doesn't meet the
10 expectations, during various evaluation processes, or terms
11 of consideration, a charter school would have an opportunity
12 to demonstrate that it's making sufficient progress toward
13 those academic performance expectations through the
14 submission of a document that we call a Demonstration of
15 Sufficient Progress.
16 Q. What is it the charter holder does in the
17 Demonstration of Sufficient Progress document?
18 A. The Demonstration of Sufficient Progress document,
19 pursuant to the instructions that are provided, give the
20 school an opportunity to discuss their prior efforts related
21 to their improvement efforts, the development and
22 implementation of systems that have been identified as best
23 practices for creating strong schools.
24 So they have an opportunity to discuss the
25 processes that they've created and implemented for these

1 systems, and the documentation or data that would support the
2 effectiveness of the implementation of those systems.
3 Q. Does the Board's academic performance framework
4 that is contained in Board's Exhibit 1, does it detail the
5 Demonstration of Sufficient Progress document and what must
6 be contained in that document?
7 A. It does, yes.
8 It very specifically has a section that begins with
9 the title page on BCS40, and carries on to BCS41, that
10 describes the demonstration process.
11 And then, more specifically, on Page 44.
12 And then the subsequent pages for this school
13 through 48 provide the specific evaluation criteria.
14 So the Board doesn't just say: Tell us what you've
15 been doing.
16 But it directs the school to provide very specific
17 information with regard to curriculum, instruction,
18 assessment, professional development, and the data that the
19 school has that indicates the success of the implementation
20 of those programs.
21 So the documentation here is, in essence, the
22 criteria that would be used to evaluate a Demonstration of
23 Sufficient Progress.
24 Q. Once a charter school is advised by the Board that
25 it needs to complete and submit a Demonstration of Sufficient

1 Progress document, how long is the school provided to do
2 that?
3 A. They have two months.
4 Q. Once the school submits -- and I'll call it the
5 Demonstration of Sufficient Progress document, DSP.
6 Once the school submits its DSP document, what
7 happens next?
8 A. Once the school puts together the document that --
9 while they have two months to create the document, the
10 document is intended to reflect their efforts to implement
11 and make changes in their system over time.
12 And so that document then is evaluated by the Board
13 staff, using the scoring criteria that is contained in the
14 academic performance framework and guidance document.
15 Q. What happens after the evaluation of the DSP
16 document?
17 A. After the evaluation is completed, the school is
18 provided a letter that informs them of the date that a team
19 from the Charter Board is going to go out and visit the
20 school, and is provided also with -- in the letter -- in a
21 letter, there is -- in addition, to the confirmation of the
22 date that they're coming, they're told that there will be
23 attached of a copy of the evaluation rubric so that they can
24 see how the staff evaluated their submission of their DSP
25 document.

1 That letter also contains a list of the evidence
2 that was stated within the demonstration document that the
3 staff will expect to see and verify at the time of the site
4 visit.
5 And it also provides the school the opportunity to
6 collect any other information that they might feel the Board
7 staff should see based on the results of the evaluation of
8 the initial submission.
9 Q. What happens, then, after the site visit?
10 A. So the site visit is scheduled.
11 The Board goes out, the staff conducts the site
12 visit, evaluates the information that was contained, collects
13 any additional evidence that the school would like to
14 provide.
15 Upon leaving the site visit, the team is -- the
16 school is provided another 48 hours. So, kind of, that after
17 you leave, if there's something you think, oh, gosh, I should
18 have said or we should have told them, they have 48 hours to
19 produce any additional documentation that they would like to
20 be considered.
21 Subsequent to that 48 hours then, a second
22 evaluation is completed of all of the materials then that
23 have been provided as part of this demonstration process.
24 Q. So is the term "Demonstration of Sufficient
25 Progress" used to describe both the documentation that's

1 submitted to the Board and the processes that you just
2 described; DSP document, the initial evaluation, site visit,
3 and follow-up documentation provided?
4 A. Yes.
5 Q. Were these processes followed with KDLO?
6 A. Yes, they were.
7 Q. And at the conclusion of those processes, is an
8 evaluation made as to whether the charter school did or did
9 not demonstrate that it was making sufficient progress
10 towards the Board's academic performance expectations?
11 A. Yes.
12 Q. Following these processes, is there a packet of
13 materials that is put together for the members of the Charter
14 Board to consider in determining whether they're going to
15 restore or revoke a failing school?
16 A. Yes.
17 We call that packet of materials a portfolio.
18 Q. Would you please refer to Board Exhibit 2, which
19 includes Tabs A through I, and tell us what's contained in
20 Board's Exhibit 2.
21 A. Sure.
22 Going through each of the tabs, in Tab A is what we
23 call a staff report. The staff report contains summary
24 information about the school itself.
25 You'll see, on the first page, there is an

1 attendance history, enrollment history and attendance for the
2 school.
3 The second page is actually a copy of the dashboard
4 as it is reflected and provided to the school on our website.
5 The subsequent pages, then, is the description of
6 communications and the timeline of the activities that have
7 occurred for this process and the development of the
8 situation that exists that is being considered by the Board
9 at this time.
10 If you look at BCS Page 54, specifically, with
11 regard to the overall evaluation of the demonstration, you
12 can see, in the middle of the page, under the heading of
13 Demonstration of Sufficient Progress, there is a paragraph
14 that specifically provides the specific determinations from
15 the evaluation of the DSP.
16 Following that, with regard to each of the
17 evaluated areas, there's a summary paragraph.
18 And then the subsequent pages of the staff report
19 are additional information regarding the financial
20 performance and compliance of the school.
21 Tab B is -- I've already discussed briefly and,
22 again, this is the communication between the Charter Board
23 and the Department of Education specifically requesting the
24 information that indicates that the school in consideration,
25 KDLO, was determined to be an F school, along with the letter

1 that was provided to the school identifying that after the
2 appeal process, the school was in fact designated as an F.
3 Attachment C. is the letter that was sent from
4 Martha Morgan, who again was the director of charter
5 accountability and a member of my team, to KDLO,
6 Ms. Youvella, the identified charter representative,
7 indicating that the Department had notified the Board that
8 KDLO had received a letter grade of an F.
9 And that pursuant to the Board's processes and its
10 statutory requirements, the Board needed to determine whether
11 or not to restore the charter school to acceptable
12 performance or to revoke it.
13 And the process that would be used, which is the
14 Demonstration of Sufficient Progress, and how to access that
15 process.
16 Attachment D. is, again, a letter from Martha
17 Morgan, to Linda Youvella, identifying that the date for the
18 site visit had been set for the evaluation, or the continued
19 evaluation of their demonstration documents.
20 And then Page BCS65 is a subsequent letter that was
21 sent again, in this case, from Steve Sarmento, who is the
22 program and project specialist for the Board, identifying
23 that an evaluation had been completed, that a copy of the
24 evaluation had been attached, and the documents that would be
25 expected to be provided at the time of the site visit.

1 ADMINISTRATIVE LAW JUDGE: The gentleman that just
2 walked in is not a witness, is he?
3 MR. SHEPHERD: My name is Alton Joe Shepherd.
4 I'm a house development public official for this
5 area that I represent as well.
6 This is one of my chapters. I represent five
7 chapters.
8 I just wanted to be in this hearing.
9 ADMINISTRATIVE LAW JUDGE: That's fine.
10 We excluded the witnesses. I didn't know if you
11 were a witness.
12 MR. TUCKER: Your Honor, I'm sorry. I don't know
13 Mr. Shepherd. I know his father.
14 He's from the Kin dah Lichi'i area.
15 ADMINISTRATIVE LAW JUDGE: Thank you.
16 BY MS. ANDERSON:
17 Q. Okay.
18 A. Tab E is the Demonstration of Sufficient Progress
19 that was submitted by the charter school, as it was required
20 to do so, and the contents of what was evaluated in the
21 initial evaluation of the demonstration document.
22 Q. So Tab 2-E is Kin dah Lichi'i's DSP document?
23 A. That's correct.
24 Tab F is the actual evaluation, both the initial
25 evaluation and of the DSP document, and then the subsequent

1 evaluation after having had the site visit and reviewing all
2 of the subsequent information that was provided.
3 And Tab G identifies the documents that were
4 expected to be provided and what was provided at the site
5 visit, as well as additional information, including
6 assessment data that was provided by KDLO either at the site
7 visit or following the site visit.
8 Q. When you say "documents that were expected to be
9 provided," is that based on their having identified in their
10 DSP document that they have these items?
11 A. Expected to be provided, yes, are the things they
12 stated in the DSP document that they had evidence of their
13 implementation, their development, their creation, or their
14 use, as part of those systems that they've created.
15 And then because the school did not meet the
16 Board's financial performance expectations, they were
17 required to submit a written response as to the academic
18 performance of the school.
19 That response is evaluated.
20 And the school's submission as well as the
21 evaluation of that response are what is included in Tab H.
22 Q. Just for clarification, because I think you said
23 they're required to submit an academic performance response
24 when talking about exhibit -- Board Exhibit 2-H.
25 But did you mean to say they're required to submit

1 a financial performance response?
2 A. I'm sorry.
3 Yes, the financial performance.
4 I'm in an academic mode.
5 This was a financial performance response.
6 And then tab I was additional financial information
7 that was provided with regard to their financial performance
8 response.
9 Q. As indicated at the bottom of Page 51, in Board
10 Exhibit 2-A, where it says "ASBCS Board meeting, December 9,
11 2013," was that the date on which the Charter Board met to
12 consider whether to restore or to revoke Kin dah Lichi'i's
13 charter?
14 A. Yes, the consideration occurred at the December 9,
15 2013 Board meeting.
16 Q. Was the contents of Exhibit 2, with all of the tabs
17 included in Board Exhibit 2, was that posted on the Board's
18 website prior to the Board's December 9, 2013 Board meeting?
19 A. Yes, it was.
20 Q. Was KDLO also provided an opportunity to appear
21 before and address the Board at that meeting?
22 A. They were.
23 Q. Did, in fact, representatives of KDLO appear and
24 address the Board at that meeting?
25 A. Yes, they did.

1 Q. Was it the decision of the Board to revoke KDLO's
2 charter at that meeting?
3 A. Yes, it was.
4 Q. And on what basis?
5 A. The basis for their revocation was the fact that
6 the school is in fact designated as an F school; and that
7 following the Demonstration of Sufficient Progress process,
8 the charter school failed to demonstrate that it was making
9 sufficient progress towards the Board's academic performance
10 expectations.
11 MS. ANDERSON: I have no further questions at this
12 time, Your Honor.
13 ADMINISTRATIVE LAW JUDGE: Thank you.
14 Mr. Tucker, you may cross.
15 MR. TUCKER: Thank you, Your Honor.
16
17 EXAMINATION
18 BY MR. TUCKER:
19 Q. Ms. Rowe, we talked a little bit about the term
20 academic growth. I think that's a fairly generic term.
21 It's my understanding, isn't it true, that can be
22 measured in numerous ways with different methodologies?
23 A. It probably could, yes.
24 ADMINISTRATIVE LAW JUDGE: Would you move your
25 microphone a little closer?

1 MR. TUCKER: I'm sorry.
2 ADMINISTRATIVE LAW JUDGE: You're okay. We still
3 have the court reporter.
4 Thank you.
5 BY MR. TUCKER:
6 Q. I note on your Exhibit 2-b, correspondence from
7 Mr. Gray to Ms. James, the second paragraph, where Mr. Gray
8 says it can be determined that while significant changes were
9 made at the school.
10 A. Yes.
11 Q. So there were significant changes, in Mr. Gray's
12 opinion, made at the school, correct?
13 A. The statement reads: That the review committee
14 determined that while significant changes were made at the
15 school, the evidence as a whole was not compelling enough to
16 overturn the third consecutive improvement label this year.
17 That's correct.
18 Q. Yes, but that wasn't my question.
19 A. I'm sorry.
20 Q. My question was: Mr. Gray noted that there were
21 significant changes at the school; is that correct?
22 A. In part, yes, that's correct.
23 Q. In fact, that's correct?
24 Not in part.
25 That's the correct answer to my question?

1 A. Yes.
2 Q. Thank you.
3 In your framework, there's some flexibility in the
4 application of the academic performance framework and
5 guidance, some flexibility in its application and
6 implementation?
7 A. I'm not sure what you mean by "flexibility."
8 Q. Is there some judgment involved?
9 A. There is an evaluation process which would require
10 judgment, yes.
11 Q. I think you were here when I read that little bit
12 in my opening statement?
13 A. Yes, I was.
14 Q. Do you agree that that envisions some flexibility
15 in the application?
16 We can read that again if you wish.
17 A. If you would, point me to that, please.
18 Q. Page 23, Bates stamp is 24.
19 The part I'm referring to is the second paragraph
20 on the page, starting with the second sentence.
21 However, it is important to keep in mind that
22 making complex judgments about school performance often
23 requires a nuance of understanding of the school's outcomes
24 that may be obscured by an oversimplified grading scale. The
25 academic framework provides an effective means and ways to

1 apply to a school for certain consequences, and then make a
2 judgment about how to apply the consequences all things
3 considered.
4 A. Correct.
5 That's why the Board has the academic performance
6 expectations in the framework, and then has the Demonstration
7 of Sufficient Progress, the DSP document and process, that
8 provides the school with the opportunity to provide that
9 nuance.
10 Q. I guess I'm not being clear.
11 I just asked if that indicated there was some
12 flexibility in the application in implementing your
13 famework.
14 A. In implementing the framework, yes.
15 Q. In your framework process, are there any
16 discussions with parents, community members, recipient of
17 services in the process?
18 A. In the framework process, no.
19 Q. Is there any opportunity for them to contribute
20 through surveys or questionnaires or opinion cards?
21 A. In the framework process, no.
22 Q. In the framework process, is there any first person
23 contact with students?
24 A. No.
25 Q. We talked about the dashboard, and there was quite

1 a bit of talk about that.
2 All of this was historical, right?
3 The dashboard was about 2012-2013, the past,
4 right?
5 A. The academic dashboard included the academic
6 performance data from the 2011-2012 school year and the
7 2012-2013 school year.
8 Q. So it did not include anything about 2013-2014?
9 A. No, it did not.
10 Q. There's some discussion about comparable
11 schools.
12 Is there any group of Navajo students or Navajo
13 schools?
14 A. The comparable comparison schools does not take
15 ethnicity into consideration.
16 Q. You mentioned the charter holder is a nonprofit
17 corporation.
18 I think you're aware that this is a nonprofit
19 corporation that's governed by school board members selected
20 by the community?
21 A. I don't believe I mentioned that it was a nonprofit
22 organization, but that is in fact correct.
23 And it is my understanding that it is governed by
24 the community, yes.
25 Q. Again, here is one of those discretionary

1 things.

2 Isn't it true that they've been evaluating the DSP

3 involves subjective judgment?

4 A. The DSP involves a judgment based on the

5 evaluator's review of the documents and the information it's

6 provided.

7 Q. So they exercise some judgment regarding that?

8 A. Subjective, based on the training and experience

9 and their expectations, yes.

10 Q. Is there a standard turnaround time for a school

11 that's falling far below to reach acceptable levels?

12 A. The Board has an intervention schedule for

13 monitoring the schools that don't meet the Board's academic

14 performance expectations.

15 Q. Again, that's not my question.

16 Is there a standard turnaround time?

17 A. I don't believe so, no.

18 MR. TUCKER: I have no further questions.

19 ADMINISTRATIVE LAW JUDGE: Any redirect?

20 MS. ANDERSON: Yes, Your Honor.

21

22 FURTHER EXAMINATION

23 BY MS. ANDERSON:

24 Q. Would you please refer to Board's Exhibit 2-B, at

25 Page 61.

1 Do you know the basis for the statement by Mr. Gray
2 that the review committee determined that while significant
3 changes were made at the school, the evidence as a whole was
4 not compelling enough to overturn the third consecutive
5 improvement label this year?
6 A. In the appeal process, the part of the appeal,
7 especially for an F school, is the consideration of the
8 information that is provided in a school's improvement
9 plan questionnaire, which speaks to the -- provides an
10 opportunity for the school to address the efforts that have
11 been made.
12 Because we need to keep in mind that this isn't the
13 first year that the school was designated as being below the
14 State standard inasmuch as they were underperforming in 2011,
15 they were rated as a D in 2012, and then their preliminary
16 letter grade of a D in 2013.
17 So in fact, as an underperforming school and then
18 subsequently a D school, the school has had three years of
19 academic information that indicate that it's not doing as
20 well as it should be with its students.
21 And so in its consideration of whether or not a
22 school should be designated as an F or receive a different
23 letter grade, this committee looks at -- or, the school is
24 provided the opportunity for the committee to look at
25 evidence of its implementation of its own improvement plans

1 and the progress that they have made.
2 Q. You were asked about the dashboard not including
3 2013-14 data.
4 Why is that?
5 A. The academic dashboard is created using AIMS
6 assessment data, so the statewide assessment data and the
7 school's assessment data.
8 That data only becomes available after the AIMS
9 assessment has been provided, and it's an end-of-year
10 assessment.
11 So there would not be any AIMS data available for
12 the current school year.
13 Q. The DSP process does allow for consideration of
14 2013-2014 school year data that a school would want to
15 provide; is that correct?
16 A. Absolutely, the school can provide a variety of
17 data in its determination that would show that they're
18 making progress in successful implementation of their
19 programs, including evidence up to the time that the DSP is
20 due.
21 MS. ANDERSON: I have no further questions, Your
22 Honor.
23 ADMINISTRATIVE LAW JUDGE: Thank you.
24 You may step down.
25 MS. ANDERSON: Call Steve Sarmento.

1

2 STEVE SARMENTO,

3 having been first duly sworn upon his oath by the Notary

4 Public to speak the truth and nothing but the truth, was

5 examined and testified as follows:

6

7 EXAMINATION

8 BY MS. ANDERSON:

9 Q. Would you please state your name for the record.

10 A. Steve Sarmento.

11 Q. Where are you currently employed?

12 A. I'm employed at the Arizona State Board for Charter

13 Schools.

14 Q. What is your position there?

15 A. I'm a program and project specialist.

16 Q. What are your duties as the program and project

17 specialist?

18 A. I work in the Department of Accountability.

19 We're involved in the 5- and 10-year review of

20 schools, the renewal of charters, and the monitoring of

21 academic performance.

22 Q. As part of your duties, you are then correct, are

23 you charged with monitoring the academic performance of

24 charter schools sponsored by the Board?

25 A. Yes.

1 Q. When is an evaluation conducted of a charter
2 holder's progress toward the academic performance
3 expectations set forth in the Board's academic performance
4 framework?
5 A. When one or more of the schools operated by a
6 charter holder receives an overall rating of does not meet or
7 falls far below the standards set by the Board.
8 Q. What is your educational and professional
9 background and experience?
10 A. I have over 15 years of experience in education.
11 That includes time as a classroom teacher.
12 I also worked for a national charter management
13 organization.
14 I was a curriculum specialist working with schools
15 in Arizona, Michigan and Colorado in the implementation of
16 curriculum and improvement plans in schools.
17 I've been at the Board for three years. Those
18 three years have been working on monitoring the academic
19 performance of schools.
20 Q. Are you familiar with the charter school KDLO?
21 A. Yes.
22 Q. How are you familiar with that school?
23 A. I was part of the team that was assigned to review
24 the Demonstration of Sufficient Progress document that the
25 charter holder submitted.

1 And I was also part of the team that conducted the
2 site visit to the school.
3 Q. Would you please refer to Board Exhibit 3.
4 For what measures was KDLO's DSP document required
5 to provide a response?
6 A. They were required to provide a response in any of
7 the measures where they were scored as does not meet or falls
8 far below.
9 Q. Would that be for 2013?
10 A. For 2013, correct.
11 Q. Why were they required to provide a response in
12 those particular measures?
13 A. A measure that does not meet or falls far below,
14 those are the factors that contribute to the overall rating
15 of the school.
16 So the overall rating does not meet or falls far
17 below. It's back to those measures that do not meet or falls
18 far below, so we require them to report in those areas, or
19 areas that were evaluated as no rating.
20 Q. Could you please refer to Board Exhibit 1, at Page
21 41.
22 I'm referring to the numbers in the bottom right
23 corner of the page that begin with BCS.
24 A. Okay.
25 Q. What does the Board's academic performance

1 framework instruct KDLO to provide in its DSP document?
2 A. In the first paragraph, fourth line down, sentence
3 states what they are to provide.
4 And that is: Evidence of success may be derived
5 from any implemented improvement plan, and must be presented
6 using graphs, tables or data charts that demonstrate with
7 specificity improved academic performance based on data
8 generated from valid and reliable assessment sources.
9 Q. And then beginning at the bottom of Page 41, does
10 it also go into particular areas in which the charter
11 holder's DSP must make that demonstration?
12 A. Yes, for each of the measures, starting at the
13 bottom of Page 41, and continuing on.
14 It identifies, for each measure, the improvement
15 plan should include evidence of increased student growth, and
16 lists a bullet list of items including curriculum that
17 contributes to increased student growth, plan for monitoring
18 the integration of the Arizona academic standards into its
19 instruction, a plan for monitoring and documenting increases
20 in student growth, professional development plan that
21 contributed to increases in student growth.
22 That's for the requirements for growth.
23 Measures related to proficiency would be those four
24 areas of curriculum, monitoring instruction, monitoring
25 student proficiency or professional development that

1 contributes to student proficiency.
2 Q. If you would, please, refer to Page 43 of this
3 exhibit.
4 Beginning at the bottom of the page, where it
5 states, "Evaluation criteria for Demonstration of Sufficient
6 Progress," and it continues on to Page 46, on these pages,
7 does the academic performance framework identify the criteria
8 that's used to evaluate the response provided in the DSP
9 document?
10 A. Yes.
11 Q. Again, that's for each of the four categories:
12 Curriculum, instruction, assessment, and professional
13 development?
14 A. Yes.
15 Q. Was an evaluation of KDLO's DSP document conducted
16 in accordance with the evaluation criteria stated in the
17 Board's academic framework?
18 A. Yes.
19 Q. Is that evaluation what is referred to as an
20 initial evaluation?
21 A. Yes.
22 Q. Is KDLO's Demonstration of Sufficient Progress
23 document on which the initial evaluation was conducted what
24 is contained in Exhibit 2-E?
25 A. Yes.

1 Q. After the completion of the initial evaluation of
2 KDLO's DSP document, what happened next?
3 A. The evaluation was given to the charter holder
4 prior to.
5 The site visit was conducted after the initial
6 evaluation.
7 Q. After an evaluation of the DSP document, is the
8 initial evaluation instrument with the findings of the
9 initial evaluation provided to --
10 A. Yes.
11 Q. Was it provided to KDLO?
12 A. Yes, it was e-mailed to them.
13 Q. Was a site visit then conducted at KDLO?
14 A. Yes.
15 Q. When was the site visit conducted?
16 A. It was late November.
17 I believe, November 21st.
18 Q. Of 2013?
19 A. Yes.
20 Q. Who was present at the site visit?
21 A. Present at that site visit was the team of Board
22 staff that were assigned to evaluate that DSP and
23 representatives from the charter holder, school leaders that
24 were selected by the charter holder.
25 Q. You were a member of that team?

1 A. Yes.
2 Q. What was the purpose of the site visit to KDLO?
3 A. The purpose of the site visit to, first, an
4 opportunity to verify the information that's provided in the
5 Demonstration of Sufficient Progress, and also an opportunity
6 for the charter holder to provide additional documentation
7 and evidence to address areas that were evaluated as not
8 acceptable in the initial evaluation.
9 Q. As part of the their demonstration of their
10 progress toward the Board's academic performance
11 expectations, was KDLO also provided an additional period of
12 time following the site visit to provide additional
13 demonstration documentation?
14 A. Yes, they were provided 48 hours after the site
15 visit to submit additional documentation.
16 Q. Did they provide additional documentation?
17 A. Yes.
18 Q. Following the site visit and the opportunity after
19 the site visit to provide additional documentation, was a
20 second Demonstration of Sufficient Progress evaluation
21 instrument completed?
22 A. Yes.
23 Q. Why is a second evaluation conducted, and what does
24 that second evaluation consist of?
25 A. The second evaluation takes into consideration

1 additional documentation or evidence provided to address any
2 areas that were scored as not acceptable or any finance
3 related items that were presented or described in the
4 Demonstration of Sufficient Progress, whether or not they
5 were or were not able to provide those items, and
6 determination of whether or not that information would change
7 the evaluation.
8 Q. And was the second evaluation conducted in
9 accordance with the evaluation criteria contained within the
10 Board's academic performance framework?
11 A. Yes.
12 Q. Could you please refer to Board's 2-F.
13 Tell us what's contained in 2-F?
14 A. 2-F is the evaluation instrument for Kin dah
15 Lichi'i Olta'.
16 This contains both the initial and the evaluation
17 after the site visit.
18 Q. What is the distinction between the comments that
19 were provided in the initial evaluation versus the subsequent
20 evaluation?
21 A. In the comment section, the unbolded comments are
22 those that were provided as part of the initial evaluation.
23 And after the site visit, the comments are
24 presented in bold.
25 Q. And the date at the top right that says "evaluation

1 completed," and has a date of November 14, 2013, was that the
2 date on which you conducted your initial evaluation of the
3 KDLO's DSP document?
4 A. Yes, that's the date for the initial evaluation of
5 the document.
6 Q. Is the date of 11-29-13 the date on which you
7 conducted your subsequent evaluation of KDLO's demonstration,
8 which included, additionally, the information provided at the
9 site visit or after the site visit?
10 A. Yes, that is the date that the second evaluation
11 was completed.
12 Q. When an initial evaluation was provided to KDLO,
13 that was prior to the site visit?
14 A. Correct.
15 Q. That contained -- the comments contained in Board
16 Exhibit 2-F contained the unbolded comments; is that correct?
17 A. Yes.
18 Q. What was your initial evaluation of KDLO's DSP
19 document with regard to the category of curriculum?
20 A. With curriculum, we found that they described an
21 approach to create and implement curriculum, but that
22 approach did not evaluate the revised school curriculum.
23 Q. Was this evaluation and finding the same for both
24 of the student growth measures for the SGP for students
25 overall and for the SGP for the bottom 25 percent of

1 students?
2 A. Yes.
3 Q. Was your evaluation the same for both reading and
4 math?
5 A. Yes.
6 Q. Based on the comments that you provided in your
7 initial evaluation of curriculum, which is the narrative
8 describes an approach to create and implement curriculum, but
9 this approach does not evaluate a revised school curriculum.
10 What did you expect KDLO to demonstrate at the site
11 visit?
12 A. Expect them to be able to provide documentation or
13 evidence of a system to evaluate a revised school curriculum.
14 Q. What is the significance of a school's evaluation
15 and revision of curriculum to increasing student academic
16 growth and proficiency?
17 A. Collectively, that's to ensure that the curriculum
18 is current, up-to-date, and provides resources to meet the
19 teachers and students needs.
20 Q. What is the significance of a school's evaluation
21 and revision of curriculum to increasing student academic
22 growth and proficiency to its lowest performing 25 percent of
23 students or to it s subgroups, the English Language Learners,
24 the free and reduced lunch, and disabled students?
25 A. That's to ensure that, collectively, the curriculum

1 they have is meeting the needs of all students and
2 specifically identified to meet the needs of students in
3 those particular subgroups that have specific needs.
4 Q. Are there additional curriculum materials or
5 supplemental materials that can typically be used for
6 students in the subgroups in the lowest 25 percent?
7 A. Yes.
8 Q. Did KDLO, at or within 48 hours following a site
9 visit, demonstrate that they have a process for evaluating
10 and revising school curriculum?
11 A. No.
12 Q. In your final evaluation, did KDLO, through the
13 Demonstration of Sufficient Progress process, which includes
14 there DSP document, your site visit, information following
15 the site visit, demonstrate that it has a process in place
16 for the ongoing evaluation and revision of its curriculum?
17 A. No document or evidence of ongoing evaluation or
18 revision of implemented curriculum was provided.
19 Q. What was your initial evaluation of KDLO's DSP
20 document with regard to the category of instruction?
21 A. The absence of an unbolded comment in the initial
22 valuation indicates that that area was scored as meeting the
23 evaluation criteria.
24 Q. Did your evaluation change after the site visit and
25 KDLO's additional opportunity to provide information

1 following the site advice?
2 A. The absence of bolded comment indicates that after
3 the site visit, that what was demonstrated was that they met
4 the evaluation criteria in that category.
5 Q. What was your initial evaluation of KDLO's DSP
6 document with regard to the category of assessment?
7 A. The absence of an unbolded comment indicates that
8 in the initial evaluation of category of assessment, the DSP
9 was evaluated as meeting the evaluation criteria.
10 Q. What was the basis for that evaluation?
11 A. Information contained within the Demonstration of
12 Sufficient Progress document itself, the narrative
13 description provided.
14 Q. Based on the information that KDLO provided in its
15 DSP document on the area of assessments, what did you expect
16 KDLO to demonstrate at the site visit?
17 A. I refer to the demonstration document, Exhibit E.
18 On Page 70, second paragraph, there's a header,
19 assessments and monitoring document proficiency.
20 In this, they state that an annual data retreat is
21 scheduled to occur at the beginning of every school year.
22 Specific student areas of weakness and strength are
23 noted on the assessments, including AIMS, as are any student
24 achievement trends.
25 This information is then used by teachers to

1 monitor and document any inproficiency and to guide
2 instruction.
3 Throughout the school year, NWEA maps data, along
4 with the CART information is used quarterly to monitor and
5 document student learning, realign instruction, and plan
6 instruction based on the data.
7 So looking at this piece, I expected to see
8 analysis of data and that information being used to realign
9 instruction and plan instruction based on that analysis.
10 The narrative does go on to say that additional
11 school improvement procedures that are being implemented are
12 included in Section 2-A.
13 2-A is located at Page No. BCS81.
14 The paragraph with heading: Assessment Formative.
15 Starting at the end of that, the last sentence
16 states: The formative assessments will be given to the
17 students at the end of each unit, a study to measure mastery,
18 which has been set at 80 percent of their goal.
19 Continuing on: Staff used a data-driven
20 instructional system, which includes analyzing baseline data
21 from assessments and report cards.
22 And then providing targeted professional
23 development to support teacher knowledge base of the research
24 based instructional strategies to employ to best meet the
25 needs of each student.

1 Teachers have the information needed to effectively
2 adjust instructional focus and employ regrouping and other
3 differentiation strategies to ensure that each student is
4 making progress towards mastery of specific skills and
5 content using data-driven instruction and ongoing assessment
6 as cornerstone of our program.
7 Based on this information, I expected to see
8 teacher -- evidence of teacher aligning instruction resulting
9 in students making progress towards mastery, which they have
10 set the standard at 80 percent.
11 Q. What is the significance of analysis of student
12 assessment data and realigning instruction based on that data
13 to increasing student growth and proficiency?
14 A. Analysis of data is going to indicate to that
15 teacher whether or not instruction has been effective in
16 identifying where deficiencies may lay.
17 Realignment of instruction would be to make
18 appropriate adjustments based on the analysis of the data to
19 target specifically those deficiencies that are revealed
20 through the analysis of data, resulting in an improved
21 subsequent performance based on that realignment of
22 instruction.
23 Q. Did KDLO, at or within the 48 hours following site
24 visit, demonstrate that they have a process in place -- did
25 they evidence an analysis of student assessment data and

1 realignment of instruction based on that data?
2 A. As stated in the evaluation, at the site visit, no
3 evidence of analysis or data or realignment of instruction
4 based on data was provided?
5 ADMINISTRATIVE LAW JUDGE: Are either of those
6 witnesses that just walked in the room --
7 MR. TUCKER: They will not be called as witnesses,
8 Your Honor.
9 ADMINISTRATIVE LAW JUDGE: Okay. Thank you.
10 BY MS. ANDERSON:
11 Q. In your final evaluation, did KDLO, through the
12 Demonstration of Sufficient Progress process, the DSP
13 document, the site visit, information following the site
14 visit, demonstrate evidence of analysis of student assessment
15 data and realignment of instruction based on an analysis?
16 A. No.
17 Q. Why was that your final evaluation?
18 A. As I stated in the evaluation, at the site visit
19 and subsequently, no evidence of analysis of data or
20 realignment of instruction based on data was provided.
21 Q. Was that your evaluation for the student -- both of
22 the student growth measures, the SGP for students overall and
23 for the bottom 25 percent?
24 A. Yes.
25 Q. In reading and math?

1 A. Yes.
2 Q. Was that also your evaluation for the student
3 proficiency measures, the percent passing, the composite
4 school comparison, and the student subgroups?
5 A. Yes.
6 Q. For both reading and math?
7 A. Correct.
8 Q. What was your initial evaluation of KDLO's DSP
9 document with regard to the category of professional
10 development?
11 A. I'm going to reference the Board Exhibit F.
12 The initial evaluation stated that the narrative
13 describes a professional development approach that lacks
14 follow-up and monitoring strategies.
15 Q. What is the significance of a school's follow-up
16 and monitoring strategies for professional development to
17 increasing student academic growth and proficiency?
18 A. Professional development is targeted to identify
19 the areas of teacher need or areas of high importance to
20 provide training to teachers.
21 Once they receive that training, follow-up and
22 monitoring is to ensure that training that has been received
23 is actually being implemented and occurring in the classroom
24 to result in changes to instruction, resulting in improved
25 students academic performance.

1 Q. What do you mean by follow-up and monitoring
2 strategies?
3 A. The monitoring would be observations within the
4 classroom, looking specifically for techniques or
5 information, at least, provided to teachers as part of
6 professional development and training.
7 The follow-up would be communication correspondence
8 with teachers in terms of what was observed, what next steps
9 need to be taken; if the expected changes are not occurring,
10 some follow-up to get teachers on track to get those steps
11 put in place.
12 Q. What is the significance of the school's follow-up
13 and monitoring strategies for professional development to
14 increasing student academic growth deficiency in the bottom
15 25 percent or in the student subgroups?
16 A. Some students in the bottom 25 percent or subgroups
17 may have specific educational needs that are separate and
18 distinct from the general student population.
19 So I'm looking for specific strategies targeted to
20 the needs -- identified needs of those subgroups to increase
21 their student performance.
22 Q. Did KDLO, at or following the site visit,
23 demonstrate professional development, follow-up and
24 monitoring strategies?
25 A. At the site visit, additional documentation, which

1 included their 2013-2014 professional development plan, some
2 sign-in sheets, instructional staff development agenda,
3 additional documentation was provided, but no documentation
4 or evidence of follow-up or monitoring strategies as part of
5 that was provided.
6 Q. Is additional documentation that you just described
7 what is contained in Board's Exhibits 8 through 10?
8 A. Yes.
9 Q. If you could, please, refer to Board's Exhibit 10
10 and tell us what's contained in that exhibit.
11 A. This is what is labeled as Kin dah Lichi'i Olta'
12 2013-2014 professional development plan, which includes
13 topics that were provided by professional development, along
14 with timeline and dates when those occurred, as well as
15 identified or described evidence of that, expected outcomes
16 or evidence of that training.
17 Q. Would you please refer to Board Exhibit 9.
18 What is contained in Board Exhibit 9?
19 A. This is described as the report of a professional
20 learning workshop, curriculum alignment to Arizona Common
21 Core standards, facilitated by Theresa Serapiglia, from June
22 24th through July 11th.
23 Included in this is an overview of topics during
24 those sessions.
25 And included on Page 157, a list of instructional

1 practices for teachers to use.
2 Q. Could you please refer to Board Exhibit 8.
3 Tell us what is contained in that exhibit.
4 A. Exhibit 8 is the Navajo BIE classroom observation
5 walk-through form.
6 Q. And what is contained in Board Exhibit 11?
7 A. 11 is the Kin dah Lichi'i Olta' lesson plan check
8 report.
9 Q. These exhibits were provided to you at the time of
10 the site visit at KDLO?
11 A. Exhibits 8, 9 and 10 were provided at the site
12 visit.
13 11 was provided to us within the 48-hour period
14 after the site visit.
15 Q. What were the results of your evaluation of
16 Exhibits 8, 9, 10 and 11 as it related to the demonstration
17 of professional development follow-up and monitoring
18 strategies?
19 A. Looking at Exhibit 10, as stated, there is
20 descriptions of evidence of each of these topics.
21 On August 1st, on our second -- in the second row
22 in that last column, you see teachers have learned how to use
23 the Prentice Hall reading system and textbook, how to
24 implement reading instructional activities for ELL students,
25 the lowest 25 percentile, RTI, intensive and strategic and

1 benchmark students, and how to group students according to
2 their needs, special education students.
3 On the next page we see that August 1st training
4 continues with, as stated in that far right column in the
5 first row, how to use the math textbook, how to group math
6 instructional activities, group students for appropriate
7 activities, including ELL students, resource students,
8 remedial and lowest 25th percentile students, RTI, intensive,
9 strategic and benchmark grouping students according to meet
10 their needs.
11 On October 4th, a session was delivered for comment
12 for writing -- or, common core writing infused across content
13 area, so writing outside the traditional English language
14 arts classroom into other content areas.
15 Based on this document, those were things that we
16 see as expectations that the teachers would be putting in the
17 classroom.
18 Exhibit 9, as I previously identified, on Page 157,
19 we see a list of instructional practices to use. This is
20 part of the professional learning workshop from that summer.
21 This list of items and instructional practices,
22 Exhibit No. 10, includes the teachers had to post math
23 placemats on the wall to show the math Common Core state
24 standards to be taught.
25 Q. You're referencing Page 157?

1 A. Yes.
2 And 12, to make reading, writing, language,
3 speaking, listening placemat.
4 And Item 13, to post that on the wall.
5 Again, some specific items the teachers were
6 provided as practices to use. So I would expect those things
7 to be monitored or followed up on.
8 Looking at Exhibit 8, the Navajo BIE classroom
9 walk-through form, I see a form that is provided to us that
10 demonstrates that observations were occurring.
11 But what I am looking for is evidence that those
12 specific items identified as outcomes from professional
13 development would be monitored here.
14 I do not see evidence of those.
15 I see they are looking for a learning objective.
16 There are some specific instructional approaches or
17 strategies, but nothing specific to their reading or math
18 program, which was a new program.
19 Implementing their new math and reading program,
20 there are specific components to that too.
21 Implement a Fidelity science program as adopted. I
22 don't see a place for that to be monitored or follow-upped
23 information to be provided to teachers.
24 General categories, such as, engagement, high order
25 thinking skills, assessments and learning environment.

1 Nothing to look for the specific strategies. This is dated
2 August 23rd.
3 Again, at the beginning of the school year, I
4 expect to see, since this was just newly provided training in
5 the beginning of August, that first month of school, we need
6 to see some monitoring of the implementation with that math
7 and reading program.
8 Moving on, also received observation forms. This
9 is Page 152. This is dated, it appears, November 2nd.
10 So after teachers receive training regarding
11 implementing that writing across content areas, again, this
12 is the same standard form, still no evidence they're
13 monitoring implementation of their reading or math program.
14 Again, nothing to indicate that their monitoring
15 whether teachers are incorporating writing in other content
16 areas.
17 And in Exhibit 11, which is the lesson plan check,
18 see that lesson plans, this is Page 164.
19 The lesson plans are being reviewed to identify
20 whether they have objectives, whether they have Common Core
21 standards, and whether they are aligned with pacing guides,
22 and whether there is ELL strategies.
23 Nothing to indicate that the lesson plans are
24 incorporating the newly adopted reading and math
25 curriculum.

1 Again, at the beginning of the year, August 26, we
2 also received lesson plan check report on Page 165. This is,
3 again, in November, we're still -- same categories appearing
4 on the standard form.
5 Teachers receive training in incorporating those
6 writing in other content areas, and nothing to indicate the
7 lesson plans are being reviewed to see if they are writing in
8 areas outside of the writing section.
9 On Page 166, we see a lesson plan check. Checking
10 for the same things here in the beginning that the teacher
11 did not see in science and social studies.
12 Lesson plans, notes stating that I need your plans
13 for science and social studies, but nothing to indicate any
14 follow-up as to whether those were actually implemented or
15 turned in.
16 Q. In your final evaluation, did KDLO's Demonstration
17 of Sufficient Progress process demonstrate evidence of a
18 professional development plan that includes follow-up and
19 monitoring strategies?
20 A. No documentation or evidence of follow-up or
21 monitoring strategies as part of the profession development
22 plan was provided.
23 Q. Was that evaluation the same for throughout all of
24 the student academic performance growth and proficiency
25 indicators and measures?

1 A. Yes.

2 Q. Would you, please, refer to Board Exhibit 1,

3 beginning on Page 41.

4 Board Exhibit 1, beginning on Page 41, where the

5 frameworks evaluation criteria are provided, does the

6 framework also identify that the charter holder is expected

7 to demonstrate and is evaluated on evidence of the

8 implementation of a sustained improvement plan that evidences

9 increased student growth?

10 A. Yes.

11 That is in the table. And that measure for student

12 reading growth percentile, that first item is: A sustained

13 improvement plan that includes evidence of student growth.

14 Q. Is that the same for the evaluation criteria for

15 the proficiency -- for student proficiency that --

16 A. On Page 41, in the row that is percent passing, you

17 see there is a sustained improvement plan that includes

18 evidence increasing the percent of students passing the State

19 assessment in reading and math.

20 Q. You're referring to Page 42 of the document?

21 A. Yes.

22 Q. So throughout each of the dashboard indicators and

23 measures, the framework directs that the charter holder needs

24 to demonstrate and is evaluated on evidence of increased

25 student growth and proficiency?

1 A. Correct.

2 Q. What is the significance of a charter holder's
3 implementation of a sustained improvement plan that evidences
4 student growth and proficiency?

5 A. Well, a sustained effective improvement plan would
6 result in increased or improved academic performance measured
7 by growth or proficiency in students in those measures.

8 So improvement in those measures would result in --
9 improved performance would result in improved performance in
10 those measures, which would change how they are scored,
11 resulting in an overall rating moving towards meets.

12 Q. In terms of meets, meaning meets the standards on
13 AIMS testing?

14 A. Meets the standards on AIMS testing, and also meets
15 the standards on the Boards's academic performance
16 framework.

17 Q. So evidencing that they are proceeding toward
18 meeting the Board's academic performance expectations?

19 A. Yes.

20 Q. If you could, please, refer to Board Exhibit 1 --
21 excuse me.

22 Please refer to Board Exhibit 2-E, which is the
23 School's Demonstration of Sufficient Progress document, at
24 Page 70 and 71.

25 KDLO, in its DSP document, is providing its

1 demonstration of its progress in student achievement in
2 math.
3 And on Page 71, provides two graphs to evidence its
4 student growth in 7th and 8th grade math.
5 In your evaluation, did the information and the
6 graphs on Pages 70 and 71 pertaining to KDLO's 7th grade
7 student's math progress demonstrate that KDLO was increasing
8 its student growth in math?
9 A. No.
10 The graph on Page 71, identified as all 7th grade
11 students math progress, 2013-2014, the title includes that
12 it's a comparison of Prentice Hall, A, beginning of the
13 course, August 27, 2013, and beginning of the course,
14 readministered, which indicates that they readministered the
15 same assessment on October 24th, 2013.
16 Looking at the data contained in the graph, I see
17 that there was no change in student performance when given
18 the exact same assessment two months later.
19 Q. Is there an issue with regard to assessing students
20 on the same assessment?
21 A. Yes.
22 When given the exact same assessment again, it's
23 more of an assessment of the test rather than the students.
24 Student familiarity with the items may result in
25 not a valid result because of student familiarity with the

1 assessment items when given the exact same assessment.
2 Q. If you refer to the bottom of Page 70, in the last
3 two sentences on this page, in referencing its 8th grade
4 students math progress, KDLO states that the scores
5 reflective of the graph on the following page show
6 significant increases in math achievement and show that
7 students are becoming proficient in the Arizona Common Core
8 standards in math.
9 In your evaluation, did the information, this
10 information, and the graphic on the bottom of Page 71 that
11 pertains to 8th grade students math progress, demonstrate, as
12 KDLO represents, significant increases in math achievement
13 and show that students are becoming proficient in the Arizona
14 common core standards in math?
15 A. No.
16 This graph, as stated in the title of the table,
17 states that it's all 8th grade students mathematics progress
18 2013-2014, beginning of the year, Prentice Hall benchmark
19 test, with the average score on weekly selection test, WST,
20 year-to-date, to show evidence of increased student growth.
21 So we have a beginning of year benchmark and
22 average scores on a weekly selection tests, which is
23 completely different. It's a separate type of assessment.
24 So those are not results that can be compared to
25 each other. One is a benchmark of student progress, and the

1 other is just average scores on weekly assignments.
2 Q. Were you, at the site visit, also provided with
3 additional documentation from KDLO regarding its 7th grade
4 math progress?
5 A. Yes.
6 Q. Is that what is contained in Exhibit 4?
7 A. Yes.
8 Q. What does Exhibit 4 demonstrate with regard to
9 KDLO's 7th grade math progress in 2013-14?
10 ADMINISTRATIVE LAW JUDGE: This is Board Exhibit
11 4?
12 MS. ANDERSON: Yes.
13 THE WITNESS: This exhibit is titled all 7th grade
14 students math progress 2013 to '14, comparison to
15 Prentice Hall, A, beginning of the course, August 27th,
16 2013; and B, beginning of the course readministered,
17 readministering the same test again, on October 24,
18 2013, which is the same description provided on Page 71
19 of that to top table.
20 However, this graph shows that at the beginning of
21 the course assessment, a score of 67 percent in August
22 and declining one percentage point to 66 percent in
23 October 24th.
24 So this shows that when given the exact same
25 assessment, student performance slightly declined.

1 Again, no improvement when given this exact same
2 assessment two months later.
3 BY MS. ANDERSON:
4 Q. And the reference to 67 percent and 66 percent
5 would be to those attaining proficiency on that assessment?
6 A. That information is not contained in this graph.
7 Whether it's the percent of students reaching
8 proficiency or average score is not indicated. I cannot draw
9 a conclusion based on that.
10 It just shows that at this point they were at 67
11 and, two months later, the result was less than the prior
12 assessment.
13 Q. Would you please refer to exhibit -- Board Exhibit
14 2-E, at Page 79.
15 The bottom of Page 79 and also on Page 80, where
16 KDLO, in its DSP document, is providing its demonstration of
17 its progress with regard to its lowest performing 25 percent
18 students in mathematics, and it provides two graphs to
19 evidence that progress.
20 The graph at the top of Page 80 is titled: 7th
21 grade students in the lowest 25th percentile math progress
22 2013-14.
23 And the graph at the bottom of Page 80 is titled:
24 8th grade students in the lowest 25th percentile math
25 progress 2013-14.

1 In your evaluation, does the information and the
2 graphs on Pages 79 and 80 pertaining to its lowest 25 percent
3 7th grade students math progress show an increase in student
4 growth in mathematics?
5 A. No.
6 The 7th grade table shows that a beginning of the
7 course assessment was administered on August 27th, and then
8 again with that same assessment, beginning of course
9 assessment, was reassessed two months later, and that for 7th
10 grade, the results on the October assessment were lower than
11 those on the August.
12 I see the August value of 56 and October with a
13 value of 54, which indicates that when they were given the
14 exact same assessment two months later, there was a decline
15 in performance.
16 Again, this is not a valid measure of growth
17 because it's the exact same test being administered.
18 Due to student familiarity, this is not a valid
19 assessment of growth.
20 They are given this test and the exact same test
21 again is not a valid measure.
22 Q. Were you also provided with additional math
23 progress data for students below the 25th percentile?
24 A. Yes.
25 Q. In math, were you provided additional documentation

1 at the site visit?

2 A. Yes.

3 Q. Is that what is contained in Board Exhibit 7?

4 A. Yes.

5 Q. What does Board Exhibit 7 demonstrate with regard

6 to the math progress of KDLO students below the 25th

7 percentile for 2013-14?

8 A. Page 149 displays a graph with a title that says:

9 Students below the 25th percentile math progress, 2013-14.

10 So there is no indication of which grade level this

11 is, if it's one grade level or multiple grade levels, there

12 is no indication of that.

13 The title at the beginning says that it's a

14 comparison of Prentice Hall at the beginning of the course,

15 August 27th, and beginning of the course readministered

16 October 24th.

17 Again, readministration of the exact same

18 assessment.

19 The columns here have numerical values on them. If

20 we assume that A is equivalent to 1 and B see equivalent to

21 2, then it would be a decline in performance in the value of

22 56 in August to October performance of 54.

23 But again, it's not clear which grade levels these

24 are.

25 And the way the graphs are labeled, to attach them

1 to which assessment they are is not shown.
2 So it does not demonstrate growth for students in
3 the bottom 25th percentile.
4 Q. When it says comparison of Prentice Hall, what is
5 meant by Prentice Hall?
6 A. Prentice Hall would be the creator of the beginning
7 of course assessment.
8 Q. So that's the name of the particular company whose
9 assessment is being used?
10 A. Yes.
11 Q. While the graph on Board Exhibit 7 does not -- you
12 said it doesn't indicate which grade level or grade levels is
13 being represented by that graph, the same bars, 56 and 54,
14 are also presented in the school's DSP document on the top of
15 Page 80; is that correct?
16 A. That's correct.
17 The title is different and the labels on the
18 columns are different, but the values of the two columns are
19 the same.
20 Q. In terms of an evaluation of the information of the
21 graph pertaining to 8th grade students in the lowest 25th
22 percentile math progress for 2013-2014, in your evaluation,
23 does the information on the bottom of Page 79 and the
24 information contained in the graph on the bottom of Page 80
25 demonstrate what KDLO represents in its DSP, significant

1 increases in math achievement by its 8th graders?
2 A. No.
3 The title of the graph indicates this is a
4 comparison of the Prentice Hall beginning of the course, on
5 August 8th, 2013, and beginning of the course readministered
6 on October 24th.
7 Again, readministration of the same test, student
8 performance is not indicative of growth because it could be
9 due to familiarity with the test items since they're seeing
10 the exact same test items again.
11 They did -- a performance comparison on the same
12 assessment is not a valid way of measuring growth.
13 Q. Could you please refer to Board Exhibit 2-E, at
14 Pages 73 and 74, the bottom of Page 73 and the graph on Page
15 74, where KDLO, in its DSP document, is providing evidence of
16 its progress in student achievement in reading.
17 In the graphs on Page 74, the top one indicates the
18 7th grade reading progress for 2013-2014, and the graph on
19 the bottom of Page 74 indicates its 8th grade student reading
20 progress for 2013-2014.
21 In your evaluation, do the information in the
22 graphs on Pages 73 and 74 pertaining to its 7th grade
23 students reading progress demonstrate that KDLO was
24 increasing its students growth in reading?
25 A. No.

1 Q. Why not?
2 A. This graph shows -- the title states that it's
3 comparison of Prentice Hall, A, beginning of the year
4 benchmark, given on August 7, 2013, and the beginning of the
5 year benchmark readministered on October 21st, 2013, and also
6 average scores on weekly selection tests.
7 The first two columns indicating, again, students
8 given an assessment in August and the exact same assessment
9 in October, so not a valid measure of growth due to the
10 student familiarity with test items.
11 That being compared to average weekly selection
12 tests is a completely separate assessment, assessing
13 different things.
14 It's an average of student scores on whatever those
15 weekly tests were assessing and cannot be compared to a
16 benchmark assessment.
17 Q. If we refer to Page 73, the last paragraph on that
18 page, KDLO states that its 8th grade students, in the last
19 sentence, have made significant gains in proficiency in the
20 Arizona Common Core standards in reading.
21 Does your evaluation of the graph at the bottom
22 Page 74 support that statement?
23 A. No.
24 This graph shows the stated title, beginning of the
25 year Prentice Hall benchmark test, with the average score on

1 weekly selection tests year-to-date to show evidence of
2 increased student growth looking for proficiency.
3 Again, we're comparing a benchmark given in August
4 to an average of student scores on a weekly test.
5 Different assessments evaluating different things
6 cannot be compared to each other to demonstrate that
7 improvement because they're evaluating different things.
8 Q. Were you also provided with additional 7th grade
9 reading progress data at the site visit?
10 A. Yes.
11 Q. Is that additional documentation what is contained
12 in Board Exhibit 5?
13 A. Yes.
14 Q. What does Exhibit 5 demonstrate with regard to 7th
15 grade progress in reading?
16 A. Described in its title as 7th grade Unit --
17 benchmark assessment, Unit 1, from Prentice Hall literature.
18 Benchmark one, in the first column, date of
19 September 9, 2013, and a value of 53 percent.
20 Benchmark two, given on September 27, a value of 45
21 percent.
22 So in the intervening time between benchmark one
23 and benchmark two, student performance has declined.
24 Q. Would you please refer to Pages 76 and 77, Board
25 Exhibit 2-E.

1 Where KDLO, in its demonstration of progress within
2 its DSP document is demonstrating its progress of its lowest
3 performing 25 percent of students in reading.
4 The graph at the top of Page 77 is 7th grade
5 students below the 25th percentile reading progress
6 2013-2014, graph at the bottom of Page 77 is 8th grade
7 students in the lowest 25 percentile reading progress
8 2013-2014.
9 In your evaluation, is the information in the
10 graphs on Pages 76 and 77 pertaining to KDLO's bottom 25
11 percent 7th grade student reading progress demonstrate that
12 KDLO is increasing its student growth in reading?
13 A. No.
14 The 7th grade table includes the Prentice Hall
15 beginning of year benchmark, given on August 7th, 2013. The
16 beginning of year benchmark readministered on October 21st,
17 2013, and the average score on weekly selection test.
18 And giving the beginning of year benchmark, again,
19 readministering the same assessment is not a valid measure
20 due to student familiarity with test items, and comparing
21 that to average weekly section test is on not valid because
22 its an assessment of something different.
23 You cannot compare those two results.
24 And for 8th grade, we have the beginning of year
25 benchmark test and the average score weekly selection. So

1 again, we're comparing two different types of assessments.
2 One is a benchmark, and one an average score on
3 weekly assessments that have been given. Assessments of
4 different things that cannot be compared to each other.
5 So that graph does not demonstrate growth for the
6 bottom 25 percent reading.
7 Q. Does the graph demonstrate, as KDLO represents in
8 its DSP document, at the bottom of Page 76, that 8th grade
9 students have made significant gains in proficiency in the
10 Arizona Common Core standards in reading?
11 A. No.
12 Q. Why not?
13 A. Comparing two unrelated assessments.
14 One is a benchmark, one is average weekly score.
15 So you cannot compare them to get a measure of growth.
16 Q. Were you also provided with additional reading
17 progress data for the bottom 25 percent students at the site
18 visit?
19 A. Yes.
20 Q. Is that what is contained in Board Exhibit 6?
21 A. Yes.
22 Q. In your evaluation, what does Board Exhibit 6
23 demonstrate with regard to the reading progress of KDLO
24 students below the 25th percentile reading for the 2013-2014?
25 A. The title of the graph does not contain a grade

1 level, so there's no clear indication of which grade level
2 this is, if this is 7th grade or 8th grade or a combined.
3 It contains the beginning of the year benchmark
4 given on August 7th to the beginning of the year benchmark
5 readministered on October 21st, which is not a valid way of
6 demonstrating growth with the readministration of the same
7 assessment.
8 That is compared to an average score on weekly
9 selection tests, which is a separate assessment.
10 It's a weekly performance, which is not related to
11 the benchmark.
12 This item that has the same values of 36, 41 and
13 41, as the top graph on Page 77, and the dates appear to be
14 the same.
15 Again, the title does not indicate which grade
16 level this is representing for the bottom 25 percent.
17 Q. If you would, please, refer to Board Exhibit 2-E,
18 at Page 85 and 86.
19 Where KDLO, in its DSP document, provides its
20 demonstration of its progress of its students proficiency on
21 AIMS assessment in math.
22 With the graph at the top of Page 86, labeled as
23 KDLO 7th grade math test results for school year 2011 to 2013
24 and the graph at the bottom on Page 86 of KDLO 8th grade AIMS
25 math test results for school year 2011-2013.

1 In your evaluation, does the information in the
2 graphs contained on Pages 85 and 86 KDLO DSP document
3 pertaining to its 7th grade math proficiency, does it
4 demonstrate what KDLO describes in its DSP as significant
5 growth in math on AIMS?
6 A. No.
7 In looking at this, I see, in 2012, using the key
8 that's provided, the green bar indicates students that were
9 meets and the blue bar indicates exceeds.
10 In 2012, there was a total of 55 percent of
11 students that were passing the assessment with scores of
12 meets or exceeds. And in 2013, that declined to 15
13 percent.
14 That's a drastic decline in performance in 7th
15 grade math proficiency.
16 Q. Given the information contained also in school year
17 2011, in your evaluation, does the 7th grade math test
18 results for school years 2011 to '13 show continuous or
19 continuing improvement of 7th grade math?
20 A. Sustained improvement from '11 to -- from 2011 to
21 2012, there was improvement, but that was not sustained into
22 '13.
23 So there was no continuous or sustained improvement
24 in student proficiency over the period from 2011 to 2013.
25 Q. In your evaluation, does the information in graphs

1 on Pages 85 and 86 pertaining to its 8th grade students math
2 proficiency on AIMS demonstrate what KDLO represents in its
3 DSP document as significant growth in math on AIMS?
4 A. No.
5 Looking at overall and for sustained or continuous
6 growth, in 2011, we had a total of -- using, again, the key,
7 the total green and the blue -- 20 percent in 2011 meeting or
8 exceeding, which increased in 2012 to 53.
9 But that growth was not sustained, and declined to
10 30 percent total, 17 percent meets and 13 percent exceeds.
11 So for 2012-2013, a decrease in the percent of
12 students that were proficient.
13 If I also consider that, at this school, many of
14 these 7th grade students moved on to 8th grade -- in 2012,
15 7th grade, I have a total of 55 percent of students that were
16 meeting.
17 If those same students move on to 8th grade in
18 2013, the proficiency of 55 percent in 2012, 7th graders
19 declined to 30 percent in 2013 as 8th graders.
20 Looking at it as over time and as a group of
21 students moving within the school, nothing to indicate
22 sustained or continuous improvement in math proficiency.
23 Q. If you could, refer to Board Exhibit 2-E, at Pages
24 82 and 83.
25 KDLO, in its DSP document, provides its

1 demonstration of its progress in student proficiency on the
2 AIMS test in the reading.
3 The top of the graph on Page 83 is titled: 7th
4 grade -- KDLO 7th grade AIMS reading test results for school
5 year 2011 to 2013.
6 And the graph on the bottom of Page 83 indicates
7 it's KDLO 8th grade AIMS reading test results for school year
8 2011-2013.
9 In your evaluation, does the information and graphs
10 on Pages 82 and 83 pertaining to its 7th grade students
11 reading proficiency demonstrates what KDLO describes in its
12 DSP document significant growth in reading on AIMS?
13 A. No.
14 In looking at 7th grade reading, I see, in 2011 to
15 2012, there was an increase in students meeting, but that was
16 not sustained.
17 In 2012, where 80 percent of students scoring at
18 meets, in 2013, that declined to below 40 percent. So half
19 of the students that were proficient -- that's half the rate
20 that they were proficient in 2012.
21 So again, no demonstration of continuous
22 improvement in reading proficiency for 7th grade.
23 Q. In your evaluation, does the information in graphs
24 on Pages 82 and 83 pertaining to its 8th grade students
25 reading proficiency demonstrate, as KDLO represents in its

1 DSP document, significant growth in reading on AIMS for its
2 8th graders?
3 A. No.
4 In looking at 8th grade reading for the period of
5 2011 to 2013, in 2011, 15 percent were at meets; 2012, it's
6 at 20; and then in 2013, 21.
7 So very small increase in 2012, and then basically
8 maintaining that. So no continuous improvement in 8th grade
9 reading.
10 In looking at the group of 7th graders in 2012 and
11 how they performed as the moved into 8th grade, in 2012, 80
12 percent scoring at meets; and then in 2013, as 8th graders,
13 that declines to 21 percent.
14 With those students moving from 7th to 8th grade, a
15 decline in proficiency as well.
16 So for 8th grade, there's nothing to indicate
17 proficiency for reading.
18 Q. Would you, please, refer to Board Exhibit 2-E, at
19 Pages 88 and 89.
20 KDLO, in its DSP document, provides demonstration
21 of its progress in 7th to 8th grade students passing AIMS
22 when compared to other local schools.
23 In your evaluation, does the information in the
24 graph on Pages 88 and 89 pertaining to student proficiency in
25 AIMS in reading demonstrate an increase in KDLO students

1 proficiency levels to the levels at which composite school's
2 students perform?
3 A. No.
4 The composite schools, which is one of the Board's
5 measures, is based on the distribution of subgroups within
6 the schools, so the percentage of students includes the
7 subgroups of free and reduced lunch, special education, free
8 and reduced lunch and a distribution on grade levels.
9 That is used based on statewide data of similar
10 distribution.
11 What they've done here is compare themselves to
12 what they call similar KDLO students, and they named three
13 specific schools.
14 On the graph, they state these are other local
15 schools.
16 It's not an equivalent to how the Board's framework
17 is evaluating them.
18 But based on the information that they provided,
19 compared to other local schools, I can see that they
20 identified and selected schools to compare themselves to.
21 In looking at this graph, I see that in two out of
22 the three years, the performance was lower than the schools
23 that they chose to compare themselves to.
24 In 2011, the blue graph, that KDLO 7th and 8th
25 graders are performing lower than the 7th and 8th grade

1 students.

2 And in 2013, they are performing lower than the

3 comparison schools that they selected.

4 In 2012, there was an increase. In which case,

5 they were scoring higher than the comparison schools;

6 however, that was not sustained improvement in the data.

7 Q. In the comparison schools that they used and that

8 are identified on Page 88, is that a charter school that has

9 since closed?

10 A. Yes.

11 Q. If you would, please, refer to Board Exhibit 2-E,

12 at Pages 91 and 92.

13 KDLO, in its DSP document, is providing

14 demonstration of its progress in 7th and 8th grade students

15 passing AIMS and math when compared to other local schools.

16 In your evaluation, does the information and graph

17 on Pages 91 and 92 pertaining to student proficiency in AIMS

18 in math demonstrate an increase in student proficiency levels

19 to the levels expected by the Board?

20 A. No.

21 The levels expected by the Board are based on the

22 subgroups.

23 Again, they're comparing themselves to some other

24 local schools. And even with the schools that they have

25 selected to compare themselves, you can see that in 7th grade

1 and 8th grade, in 2011, the academic performance was lower
2 than those selected schools; in 2013, it was lower than those
3 selected schools; in 2012, it was higher, but they did not
4 sustain that.
5 Whereas, in looking at the selected schools, we see
6 that there is incremental improvement over time, consistently
7 improving.
8 In KDLO, there was no consistent improvement,
9 because the graphs decline from '12 to 13, but that
10 improvement was not sustained.
11 Q. If you would, please, refer to Board Exhibit 2-E,
12 at Pages 94 and 95, where KDLO, in its DSP document, provides
13 demonstration of its progress for its ELL subgroup population
14 in AIMS reading.
15 What was your evaluation of their progress in
16 student proficiency in AIMS in the ELL subgroup?
17 A. On Page 94, the last paragraph, they state: There
18 were no ELL students recorded from KDLO for 2011, 2012 and
19 2013 on the ADE data base.
20 However, at KDLO, we identify and considered
21 students to be ELL each year, 2011, 2012 and 2013, and
22 provide those scores.
23 ADE has the criteria for classified students as
24 ELL, English Language Learners.
25 There's no indication of how these students -- who

1 these students are that have been identified by the school as
2 ELL.
3 According to ADE, the school has no ELL students.
4 So I have no indication of who these students are.
5 In looking at the graph on Page 95, they have
6 grouped together some of the 8th grade students, which is an
7 inappropriate way of demonstrating these results, and I'll
8 explain that.
9 Along the left side of the graph, we have what's
10 called the AIMS score, which is a scale score.
11 Those numerical values correspond to the AIMS
12 proficiency bands of exceeds, meets, approaches, and falls
13 far below.
14 They're specific test scores for each grade level.
15 So a score of a certain value gets you to meets as a 7th
16 grade student would be a completely different scale score for
17 8th grade.
18 So by lumping 7th and 8th grade together and
19 averaging them, there's no clear indication of where 7th
20 grade students are relative to their meets test score and 8th
21 grade students, and there's nothing on here to indicate where
22 that proficiency level is.
23 So this data is not really valid because there's no
24 indication of who these students are.
25 And the way that the data has been lumped together

1 is an inappropriate way to demonstrate proficiency for
2 students based on these scale scores.
3 Q. If you would, please, refer to Board Exhibit 2-E,
4 at Pages 100 to 104, where KDLO, in its DSP document,
5 provides its demonstration of its progress for its free and
6 reduced lunch, FRL, students, subgroup population, in reading
7 and math.
8 What was your evaluation of progress of student
9 proficiency in reading and math in the FRL subgroup
10 population?
11 A. On Page 100, in the bottom paragraph, it states
12 that since 100 percent of our students are free and reduced
13 lunch, we will show the same improvement data for Section
14 2-C, free and reduced lunch students, in reading and math as
15 we show in Section 1-A for reading and math.
16 The tables that are provided here in 2-C, looking
17 at them, are familiar. They were presented earlier, as
18 stated in Section 1-A.
19 So again, for the same reasons, using -- as stated
20 in the 7th grade students, using beginning of the year
21 readministered and beginning of the year benchmark
22 readministered two months later is not a valid way of
23 demonstrating growth due to student familiarity with the
24 exact same assessment.
25 In a comparison to average weekly selection test,

1 it's unrelated to the assessment, assessing different items
2 to different things.
3 Different skills being assessed and averaging that
4 together, again, not a valid comparison.
5 And for the 8th grade students, we have the
6 beginning of the year benchmark, again, compared to the
7 weekly selection tests are not comparable assessments being
8 put alongside each other, so not a valid way to demonstrate
9 growth for your free and reduced lunch students.
10 Q. If you would, please, refer to Board Exhibit 2-E,
11 at Pages 106 to 110.
12 Where KDLO, in its DSP document, provides its
13 demonstration of its progress for its SPED, it's special
14 education or students with disability subgroup, in reading
15 and math, what was your evaluation of the progress in student
16 proficiency in reading and math in the SPED subgroup?
17 A. Did not demonstrate improved proficiency.
18 Again, as with the ELL students, they have combined
19 7ith and 8th grade students.
20 Q. What page are you specifically looking at?
21 A. 107.
22 Comparison for students with disabilities for 7th
23 and 8th grade, were measuring them on what's called the AIMS
24 score, again, the scale score.
25 Efficiency bands are different for 7th and 8th

1 grade. By averaging them, we've lost distinction in where
2 they are in terms of proficiency for getting those test
3 scores for the 7th grade students because it's distinctly
4 different from 8th grade students.
5 There's no indication of these values, where they
6 fall along these proficiency bands.
7 Again, because the scores are different, everything
8 is averaged together, that increase may be due to one grade
9 level.
10 We don't know where those scores are coming from in
11 terms of where they fall in relation to proficiency.
12 That same issue is on Page 110 for math. Again,
13 students with disabilities have been grouped together. It's
14 an inappropriate way to present that data.
15 The scale score is different for each grade level.
16 Q. When you say that the information isn't reflected
17 where in the bands the students were, are we talking about on
18 AIMS testing?
19 A. Yes.
20 On AIMS testing, the proficiency levels of falls
21 far below, approaches, meets, and exceeds.
22 The scale score would fall somewhere -- you know,
23 specific test scores, you would know in which category the
24 student falls.
25 Q. So we don't know, for Pages 107 or 110, for

1 example, an AIMS score of 480, whether that falls within the
2 falls far below for AIMS, the approaches, the meets, or the
3 exceeds?
4 A. They did not include that information on here.
5 Q. And you also said that that proficiency level
6 differs for 7th and 8th grade students?
7 A. Correct.
8 Q. Please refer to Board Exhibit 2-F.
9 In your final evaluation, did KDLO, through the
10 demonstration of progress process, demonstrate that it was
11 making sufficient progress towards the Board's academic
12 performance expectations?
13 A. No.
14 Q. Why not?
15 A. In the final evaluation, in the area of curriculum,
16 no documentation or evidence of ongoing evaluation or
17 revision of the curriculum was provided, and no evidence that
18 the new curriculum resulted in improved student growth in
19 proficiency in math or reading was provided.
20 In the area of professional development, no
21 documentation or evidence of follow-up or monitoring
22 strategies as part of the professional development plan was
23 provided.
24 And no evidence of the professional development
25 plan resulted in improved student growth or proficiency in

1 math or reading was provided.
2 In terms of the area of assessment, no evidence of
3 analysis of data or realignment of instruction based on data
4 was provided.
5 Q. Your comments on Page 111, the bottom, the data
6 provided included comparison of results for the same
7 benchmark test administered in August and October, and a
8 comparison of benchmark assessment results to an average
9 score on a weekly test.
10 And then that the data provided did not demonstrate
11 improved student growth.
12 That comment is repeated in each of the indicator
13 and measures for both math and reading.
14 Was that comment included in your initial
15 evaluation instrument provided to KDLO prior to the site
16 visit?
17 A. Yes.
18 That is an unbolded comment, so that was part of
19 the initial evaluation that was provided to the charter
20 holder prior to the site visit.
21 Q. And following the site visit, in your analysis or
22 your evaluation, was it concluded that there had been no
23 analysis to identify data that showed that KDLO, for the
24 2013-14 school year or at any point recently, was improving
25 in students academic growth and proficiency?

1 A. Yes.
2 Q. In your final evaluation, did KDLO demonstrate that
3 its curriculum, its students assessment, its professional
4 development was resulting in increased student academic
5 growth and proficiency in math or reading to put them on
6 track to meeting the Board's academic performance
7 expectations this year?
8 A. No.
9 Acceptability of a plan is shown in its activeness.
10 And based on our conclusions we drew from our
11 analysis, because no analysis was provided for us to draw
12 conclusions from, we saw that the school had not implemented
13 an effective system, did not have effective systems in place.
14 Q. "Effective" being, in part, that would increase
15 student academic growth?
16 A. Yes, systems that are resulting in increased
17 student growth and proficiency in math and reading.
18 MS. ANDERSON: I have no further questions, Your
19 Honor.
20 THE ARBITRATOR: Why don't we take a brief recess,
21 and then you can cross.
22 Go off the record.
23 (Brief recess.)
24 ADMINISTRATIVE LAW JUDGE: We're back on the
25 record.

1 Mr. Tucker, you want to cross?
2 MR. TUCKER: Thank you, Your Honor.
3
4 EXAMINATION
5 BY MR. TUCKER:
6 Q. Mr. Sarmento -- did I say that correctly?
7 A. Yes.
8 Q. You completed your report in November 2013; is that
9 correct?
10 A. Yes.
11 Q. So that information is from that time backwards,
12 correct?
13 A. Correct.
14 Q. During your review, did you interact directly with
15 any of the children at KDLO?
16 A. No.
17 Q. You talked about data and whether or not it was
18 used to change instruction or curriculum or make other
19 changes.
20 What in addition to data could lead a teacher to
21 make changes?
22 A. To make changes to?
23 Q. Curriculum, instruction, teaching.
24 A. What other information could they use?
25 Q. Sure.

1 A. Primarily, we look at the data that's giving you an
2 indication of --
3 Q. No.
4 I asked: What, in addition to data?
5 What other things other than data could a teacher
6 use to make those changes?
7 I'm sorry to interrupt you.
8 A. Data is going to give you the information about
9 what is going on with your students.
10 So I guess --
11 Q. No.
12 I'm asking you: What other things could a teacher
13 use besides data to make changes in their instruction, the
14 way they approach their children, or curriculum?
15 A. As a classroom teacher, when you're delivering
16 instruction, what you're observing in the classroom, how you
17 see students engaged, would be one indication of how you may
18 change your instruction at that point.
19 In terms of making a decision about curriculum,
20 that information of what you're going to teach, how you're
21 going to teach it, when you're going to teach it, to me, that
22 would be based in data.
23 What you do and whether or not it's effective would
24 be based on how you're assessing your students.
25 I taught this. Has it been effective?

1 The data will tell me that. I use that information
2 to make adjustments.
3 Q. No anecdotal information?
4 A. As a teacher in the classroom, what I'm observing
5 when I'm teaching at that point, I may use it to make
6 decisions on what I'm doing at that time.
7 Q. So your analysis and your review was limited to
8 data?
9 You didn't consider those other factors; is that
10 correct?
11 A. Based on the evaluation criteria that we --
12 Q. I mean, is that correct?
13 Was it just based on data?
14 Not based on other factors; such as, anecdotal
15 experience in the classrooms?
16 A. Our evaluation is based on the evaluation criteria,
17 which includes the data and the documentation that's
18 provided.
19 Q. Thank you.
20 And the evaluation was limited to math and reading?
21 A. Yes.
22 Q. So it didn't touch on personal development or other
23 possible advancement of the children?
24 A. The Demonstration of Sufficient Progress document
25 is a -- it that's based on the Board's academic performance

1 framework, which is based on math and reading.
2 Q. I'm sorry. I don't mean to be rude.
3 You didn't take into consideration those other
4 things in your analysis, personal development of the child,
5 social development?
6 It's just a simple question; yes or no?
7 A. No.
8 Q. Thank you. That's all.
9 MR. TUCKER: No further questions, Your Honor.
10 ADMINISTRATIVE LAW JUDGE: Any redirect?
11 MS. ANDERSON: Yes, Your Honor, briefly.
12
13 FURTHER EXAMINATION
14 BY MS. ANDERSON:
15 Q. Your evaluation of KDLO's demonstration of
16 progress -- demonstration of progress toward the Board's
17 academic performance expectations, did your evaluation, in
18 addition to data, also include the information that was
19 provided by KDLO with regard to their curriculum?
20 A. Yes.
21 Q. Also with regard to their instruction?
22 A. Yes.
23 Q. And also with regard to their professional
24 development?
25 A. Yes.

1 Q. And, additionally, with regard to their
2 assessments?
3 A. Yes.
4 MS. ANDERSON: I have no further questions, Your
5 Honor.
6 ADMINISTRATIVE LAW JUDGE: Thank you.
7 You may step down.
8 Since we're approaching the noon lunch hour, why
9 don't we go ahead and recess, and we'll reconvene at
10 1:30.
11 The hearing room will be locked. So I would ask
12 that the last person out, just make sure the door is
13 closed, and we'll reopen it at 1:30.
14 Going off the record.
15 (The noon recess was taken.)
16 ADMINISTRATIVE LAW JUDGE: We're back on the
17 record.
18 Are all the witnesses secluded that haven't
19 testified yet?
20 It seems like a larger crowd this afternoon.
21 MR. TUCKER: I believe, all except my next witness.
22 I've been informed that the State has concluded, or
23 will conclude, so I have my one witness here.
24 ADMINISTRATIVE LAW JUDGE: Okay.
25 You have no objection to the Board's exhibits; is

1 that correct?
2 MR. TUCKER: That's correct.
3 Okay. Show the Board's exhibits are admitted.
4 (Board's Exhibits 1 through 11 were admitted.)
5 ADMINISTRATIVE LAW JUDGE: Anything further from
6 the Board?
7 MS. ANDERSON: No, Your Honor.
8 ADMINISTRATIVE LAW JUDGE: The Board rests?
9 MS. ANDERSON: Yes.
10 ADMINISTRATIVE LAW JUDGE: Respondent may proceed.
11 MR. TUCKER: Thank you, Your Honor.
12 For my first witness, I call Dr. Theresa
13 Serapiglia.
14 ADMINISTRATIVE LAW JUDGE: Doctor, did you sign-in
15 this morning?
16 DR. SERAPIGLIA: I believe I did. I think it's the
17 second or third one.
18 ADMINISTRATIVE LAW JUDGE: Is this you?
19 DR. SERAPIGLIA: Yes, that's me.
20 Thank you, Judge.
21
22 THERESA SERAPIGLIA,
23 having been first duly sworn upon her oath by the Notary
24 Public to speak the truth and nothing but the truth, was
25 examined and testified as follows:

1 EXAMINATION

2 BY MR. TUCKER:

3 Q. Dr. Serapiglia, I think I mispronounced your name

4 right off the bat.

5 So would you say it for the record, and spell it

6 for the court reporter.

7 A. Dr. Theresa Serapiglia, S-e-r-a-p-i-g-l-i-a.

8 Q. Thank you.

9 Would you give The Court a little bit of your

10 background, your academic background and professional

11 background, please.

12 A. I got my Ph.D. in curriculum and instruction from

13 Penn State a number of years ago.

14 After that, I worked for several agencies

15 full-time. One of the agencies that I worked for full-time

16 was the Washington Elementary School district.

17 They have 32 elementary schools, and I was the

18 director of professional development at that time for six

19 years.

20 I worked for the Department of Education here. I

21 was the deputy associate superintendent for the new school

22 improvement unit.

23 I had 21 educational specialists on my staff, and

24 we were charged with providing professional development to

25 all schools in the State of Arizona as our first charge.

1 And our second charge was to begin the process of
2 developing the Arizona standards, and we started developing
3 the standards in language arts. This is way back when.
4 We had we had the various meetings with various
5 committees of educators and parents throughout the State.
6 We then took the first language arts standards to
7 the Board for adoption, and they got adopted.
8 I've worked with the Native American schools since
9 1974, off and on. So I spent a lot of time.
10 I felt very committed to that group of people and
11 that connection with the students.
12 I also worked for other schools in the State of
13 Arizona. I worked for, as a consultant, Kyrene, Gilbert,
14 Payson, Sunnyslope, Amphi, and probably another 10 or 20
15 more.
16 But that's, more or less, my highlights of what
17 I've done.
18 Q. Dr. Serapiglia, what types of consulting services
19 do you provide?
20 A. I provide consulting services in the area of
21 curriculum and instruction and assessment and professional
22 development.
23 Those are my four major areas, and they've been
24 consistently like that for some number of 30 years now.
25 Q. You said you do have experience working with Native

1 American students and schools?
2 A. Yes, since like 1974.
3 Q. Do you find that significantly different than the
4 rest of your work?
5 A. Oh, yes, very different than when you work at the
6 Kyrene or Gilbert school districts. They're very different
7 strategies you're trying to put in place, very different
8 data, very different support of the community.
9 I find it challenging, so I feel committed with
10 working with that group of people and that group of students.
11 I feel that they're great in need, and it would be
12 an inequality if we didn't do more for the students.
13 Q. Have you worked with this particular school, Kin
14 dah Lichi'i Olta'?
15 And if so, when?
16 A. I haven't worked with the charter school up until
17 this June. I started working with them June 2013.
18 Previous to that, the previous three years, I did
19 not work with the charter school at Kin dah Lichi'i Olta'.
20 Q. What did you do when you came to Kin dah Lichi'i
21 Olta' in 2013?
22 A. Well, that was a call from the principal, Ora, and
23 she said: Goodness, we really need to look to see what we
24 need to do this year. I'm new to this school, and let's
25 really look to see what the situation is.

1 The first thing we did, I played a major role in
2 this, we looked at the data, what the student achievement
3 scores were.
4 We studied the AIMS over several years. That was
5 our primary responsibility. We looked at the strengths and
6 weaknesses of the students on the AIMS.
7 We studied the curriculum that they had at that
8 time, and we noticed that the curriculum was not the Common
9 Core standards, that the curriculum hadn't been revised for a
10 while.
11 So we said: Oh, my gosh, we need to revise the
12 curriculum to meet the common.
13 We evaluated the assessments that were in place,
14 and we noticed that the assessments weren't -- of course,
15 they weren't aligned to the Common Core because the
16 curriculum wasn't aligned to the Common Core.
17 So we developed a plan for working with the staff
18 in the month of June. We set aside -- we said, we're going
19 to need 12 full days because it's such a huge endeavor.
20 One of the things we want to do is revise the
21 curriculum, update it. We want to revise the assessments to
22 match the new Common Core standards.
23 We want to develop a professional development plan
24 that addresses the needs that we have.
25 As I said, I think we've spent most of the time

1 looking at test scores. We also spent time looking at the
2 instructional materials that the teachers had to work with.
3 They were there, but they weren't aligned to the
4 Common Core either. So we thought, we are going to need some
5 quality materials.
6 We felt that we needed more quality time because
7 there was limited time to teach math and reading. There was
8 no intervention program time.
9 So we said -- Ora and I made a plan. Okay, when we
10 meet with the staff, we're going to develop some time so that
11 they have, everyday, a spot to teach the students that are
12 falling behind, which we did.
13 And then we said: We're probably going to need to
14 buy some new materials, new instructional materials, a
15 system.
16 We agreed at that time that they wouldn't be
17 piecemeal things. That they would be systematic.
18 We didn't want to have a little bit of this, a
19 staff development and then everybody goes away and is happy.
20 We wanted to have something very systematic.
21 We believe we put into place five big systems to
22 address the process of education, and then we put into
23 place -- actually, the NWEA was already in place.
24 We put into place a data driven instructional
25 system so we could use data a little more thoroughly than we

1 had been doing.
2 Q. Dr. Serapiglia, you mentioned a couple things I
3 want to get back to.
4 You said five systems.
5 You also mentioned somebody by the name of Ora?
6 A. Ora James, yes, our principal.
7 Q. Just so the court knows Ora James is the principal.
8 Could you go ahead and elaborate on the five
9 systems?
10 A. Yes.
11 We actually put those in place. We actually
12 brainstormed on those before June. Then we had, as I said,
13 12 days in June where we developed these systems.
14 And then we worked with the staff throughout the
15 next couple of months to monitor and implement those systems.
16 And they actually are the same systems that the
17 State is requiring.
18 The first system that we put into place is a
19 professional development system.
20 I could alert us to the exhibit where that is.
21 Would that be appropriate at this time?
22 Q. Yes, please.
23 A. Exhibit 16.
24 Q. Those are the KDLO exhibits?
25 A. KDLO exhibits, yes.

1 Q. Dr. Serapiglia, I appreciate your directing us to
2 those.
3 If you will, look and see that people have found
4 their place, and then go forward.
5 All right.
6 As you can see from the first page, this is the
7 2013 to '14 professional development plan.
8 A plan is a plan. You know, it's not cast in
9 concrete, so we keep modifying it as we need.
10 You can see that the topics are in the far left
11 corner, the time lines are in the next column, who was
12 responsible, and what are some of the evidences that we are
13 looking to see.
14 I think it's important to go through the four of
15 these because I've heard tell that maybe we don't have enough
16 professional development.
17 In my experience and my comparison with other
18 districts, there's, probably, 20 days here of professional
19 development, which is very extensive. So I'd like to go
20 through just a little bit of it.
21 You can see the first row on the first page of
22 Exhibit 16, it talks about the curriculum evaluation, the
23 revision, the development of the curriculum, and the
24 alignment with the career and college readiness or the Common
25 Core standards.

1 And then so I'll explain just a bit. We evaluated
2 the curriculum that we currently had, and we looked to find
3 that it was not aligned to the Common Core and it had some
4 gaps.
5 We also evaluated it by looking at the student
6 scores to see where were students low in reading and writing.
7 If the students were low in that area, we said:
8 Oh, we need to bolster the curriculum in that area.
9 So when we designed our curriculum maps and our
10 pacing guides, we would put more attention to those areas
11 where the students appeared to be weaker from previous years.
12 Q. I'm sorry. For somebody like me, what's a
13 curriculum map or a pacing guide?
14 A. You'll see, the next sentence there, it does say
15 the development of curriculum maps.
16 That was one of the biggest results of the
17 professional development at that time, and the teachers spent
18 an inordinate amount of time on this.
19 Why don't I take just a minute just to show you a
20 sample -- that might help -- what a curriculum map looks
21 like.
22 Then we'll come back to 16. So, maybe, if you have
23 a way to get back to 16.
24 The curriculum map is Exhibit 18. It's not the
25 whole curriculum map. We couldn't bring all of our

1 documents. We just brought samples.
2 Exhibit --
3 ADMINISTRATIVE LAW JUDGE: It's Respondent's 18.
4 BY MR. TUCKER:
5 Q. Appears to be the 7th grade curriculum map.
6 A. Yes, is that what that shows?
7 Q. Yes.
8 A. All right.
9 On the 7th grade curriculum map, what the 7th grade
10 teachers did and the 8th grade teachers did is they looked to
11 see what Common Core career and college readiness standards
12 were going to be taught each of the weeks so that we would be
13 assured that the curriculum was being implemented. That was
14 our first and primary objective.
15 So you can see down there -- do you see CCS
16 standards, literature and information?
17 Over there, you can see which standards are being
18 taught each of the weeks.
19 Standard RL-2 and RL-1 is being taught on week two.
20 We started teaching the standards right on week
21 two, which is August the 12th.
22 You'll notice, the week before is when we had the
23 beginning of the year benchmark diagnoses and assessments.
24 On that row, in all the curriculum maps.
25 And the next two rows, it clarifies what of the

1 Common Core standards will be taught each lesson, each week,
2 each subject.
3 And we have that for all 8th grade, all 7th grade,
4 all math and all reading.
5 So that we felt very comfortable -- because this
6 has happened before in schools that I've worked at. You
7 start teaching math and the kids fall further and further
8 behind. You start going slower and slower in your textbook,
9 and you don't ever get to teaching the last half of the
10 standards.
11 So we said we really wanted to make sure that we
12 were able to space out the standards in such a way that would
13 allow adequate time, but would allow us to get to every
14 single standard. So that was our objective.
15 Secondarily on the maps, we have the assessments
16 that are done each of the weeks. And you'll see this on the
17 assessment system too.
18 Week one, we gave the beginning of the year
19 diagnostic assessment so we could determine, in the new
20 materials: Where were the students? How were they doing?
21 And then we gave weekly selection tests. And
22 you'll notice that line goes all the way across. Every week,
23 we gave a weekly selection test after the reading to see how
24 well the students were doing.
25 And then we also wrote down what our tutoring focus

1 was, if the students fell below and they were not able to be
2 proficient in a particular standard or objective.
3 Then we have the NWEA cart. That's a system of
4 instruction. I'll explain that when I explain the
5 instructional system. It's actually a very elaborate system
6 day cart.
7 What it does is it looks at the test. In this
8 case, it looks at the NWEA test.
9 I'll address what that test is later, shall I?
10 Q. Yes.
11 A. And then it identifies, for every student, every
12 standard that they're weak in, and it specifies what you
13 would do to intervene and make an intervention.
14 So that was one of our main intervention strategies
15 and our tutoring focus for our students.
16 And then we knew we had to buckle down, the
17 material that goes along with the Arizona Department of
18 Education, the practice test. So we knew we had a lot of
19 good materials.
20 And then the first -- at the top of the page, the
21 first row that went across, you can see there the units of
22 instruction. And they are all the Prentice Hall units of
23 instruction.
24 So you can see that, week one, we started by an
25 orientation and by giving the benchmark assessments.

1 It was a short week, but we said: We are not going
2 to waste time and even go to the second week.
3 Q. Dr. Serapiglia, pardon me for interrupting.
4 You said something about benchmark assessment?
5 A. Yes.
6 Q. With the Prentice Hall, could you describe this
7 type of assessment?
8 A. Yes.
9 Let me, first of all, describe Prentice Hall since
10 we are talking about that.
11 That will be part of my instructional system
12 because it is the instructional materials that we're using.
13 Prentice Hall actually partnered with the Common
14 Core. Bill Gates funded them several years ago, and they
15 were the first of the companies to design materials to
16 specifically teach to the Common Core.
17 So they were one of the first research-based
18 materials to teach to the Common Core.
19 One of the reasons we chose Prentice Hall, although
20 it was a very high level material, we said, well, if we're
21 going to teach to the Common Core standards, which are high
22 level, we might as well have instructional materials to teach
23 to the higher level standards.
24 So we purchased the entire Prentice Hall reading
25 and math for 7th and 8th grade for the core materials and for

1 the intervention.

2 So built into that was an intervention program, it

3 was materials for the ELL students, it was materials for

4 students who were limited in English, or for special ed. So

5 it had a wide range of materials.

6 In addition to that, it had a very elaborate

7 assessment system. The assessment system starts out with a

8 benchmark assessment. They call it the beginning of the year

9 benchmark.

10 That is a test that tests a wide array of

11 standards; a wide array, very large. It's a large test.

12 It's not just a couple little questions that you can memorize

13 the answers to. It's a wide array.

14 We wanted to see, of that wide array of standards

15 that students would be being taught that year, where did they

16 stand at the beginning of the year.

17 So we gave them the beginning of the year benchmark

18 assessment. And then we studied the data to look to see:

19 Where did the students stand in their ability to be

20 proficient at those common core standards that are being

21 taught in 7th and 8th grade reading and math.

22 So we administered that.

23 Q. Because of the nature of that test, the wide array,

24 was it amenable to be used again?

25 A. Well, it was reasonable to use that one again

1 because it tested such a wide array.
2 It's not the kind of thing where there's four
3 questions and then easy answers. It's a very complicated
4 test.
5 We were trying to figure out, if we were to give
6 that test at the beginning and we were to give a test that
7 tested a wide range of standards, as we got into the
8 materials in a couple months, what would be the best
9 assessment.
10 And it was determined that that was the best
11 assessment that Prentice Hall had to be able to assess the
12 statement standards in that wide domain. It's a wide domain
13 of standards.
14 So we made that choice. I think it was a good
15 choice because it gave us some idea that we made a little
16 progress, but not so much, but it gave us some ideas.
17 We have not dealt with that test again. Now we're
18 using the weekly selection test, which is a test that you
19 give in reading every week after the students read their
20 materials, and then we're using the lesson quizzes in math.
21 We are not using that beginning of the year
22 benchmark test. We just knew we were going to use it that
23 once, and then just see how they were starting to progress
24 because it was very important to us to be able to group the
25 students into groups of instruction.

1 Some students getting more time. Some students
2 getting more instruction on specific objectives that we
3 didn't want to not have that data.
4 Q. I'm afraid I jogged you off of your explanation of
5 the five systems.
6 Can we go back there, please.
7 A. This was the curriculum map. We deviated to see
8 the curriculum map.
9 What's important about this -- sometimes you do a
10 professional development, everybody comes into the room, they
11 smile, they have doughnuts, they walk out, you had a nice
12 day.
13 We worked really hard for 12 weeks, and we have
14 binders, huge, that have all of this curriculum that we
15 developed.
16 All of the maps that show when the teachers will
17 teach each of the standards. All of the assessments. All of
18 the tutoring focuses.
19 We feel this is an example -- this isn't all. This
20 is an example of the results.
21 I think I started off where I deviated -- oh, I
22 think I was on the professional development.
23 Q. Yes.
24 A. On professional development, that's Exhibit 16, if
25 you don't mind going back to that, because that probably is

1 an overriding system that forms the basis for much of what
2 we've done.
3 As you look in that first column, you can see -- I
4 described already -- we did a curriculum evaluation. We did
5 revision. We aligned them with the Common Core, college and
6 career ready. We developed curriculum maps in reading and
7 math.
8 We also developed them in language arts. Since
9 that isn't an area we are talking about here, we left the
10 samples out, and we based them on the Common Core.
11 An interesting thing too about the Common Core
12 standards is that some people weren't using the Common Core
13 standards because they were deemed to be too high of a bar.
14 People said: Why don't you just use the older
15 standards?
16 We were very, very energetic and saying we wanted
17 to go with the higher standards and we wanted to go to the
18 Common Core so we can do that.
19 Q. Is there any downside to being energetic and using
20 those standards?
21 A. Well, I guess the only downside is the bar is very
22 high.
23 Q. So how does that translate to the students?
24 A. I have an article -- I'll deviate one more time.
25 I have an article from the New York State -- this

1 is from a recent research article. I can just read it to
2 you.
3 It says --
4 MS. ANDERSON: Objection, your Honor, we're kind
5 of going into a significant portion of her testimony
6 being narrative.
7 I would object to that format.
8 ADMINISTRATIVE LAW JUDGE: Counsel?
9 MR. TUCKER: Your Honor, I'd be glad to ask more
10 questions.
11 But in an administrative hearing, as we did this
12 morning, I thought the narrative was more efficient and
13 got the job done.
14 I'll be glad to ask questions.
15 ADMINISTRATIVE LAW JUDGE: Continue, please.
16 BY MR. TUCKER:
17 Q. Okay.
18 A. I think the question was: Was there any downside
19 to having a Common Core?
20 States that have used the Common Core have found
21 that fewer kids are proficient on the Common Core because the
22 Common Core are higher standards.
23 The way it's explained is that some of the Common
24 Core standards -- and I could be specific if I had enough
25 time -- like, for example, a standard that might have been

1 taught previously in the 9th grade might have been pushed
2 down to the 8th grade or the 7th grade, pushed down lower,
3 because we started with the Common Core where we wanted the
4 students to be at the end of high school, and then you push
5 those standards down so that students are being faced with or
6 given the opportunity, whichever way you want to look at it,
7 with achieving standards that were more challenging.
8 It's like we had the bar at maybe five feet last
9 year, and now we raised the bar to six feet for our jumpers.
10 But maybe our jumpers aren't going to be any better at
11 getting the six-foot bar just because we raised.
12 So we were energetic and wanting our student to
13 acquire more than just a little, and that could be a
14 downside. But we're still going with the Common Core
15 standards.
16 Q. And that might affect their scores negatively?
17 A. It might affect their scores negatively because
18 they are definitely more complicated standards.
19 I know some districts are thinking of opting out or
20 States are thinking of opting out of those.
21 Q. Thank you.
22 If you could, carry on with your identification of
23 the five systems.
24 A. I'll try to do that in like two more minutes.
25 Second row going across, we also did that, notice

1 the June 24 through July 11, part of the 12 full days.
2 And that was where we analyzed the data;
3 specifically, the AIMS and the NWEA. We identified the
4 subgroups, students in the lowest 25th percentile.
5 We determined specific areas of needs for the
6 students, wrote those down. We did instructional planning.
7 We identified the progress monitoring. We
8 identified the chapter tests and the groupings.
9 As you proceed through the professional
10 development, you can see there was Pearson reading training;
11 on the next page, Pearson math training; on the next page,
12 writing training; Common Core standards training.
13 You can see it's spaced out periodically throughout
14 the year.
15 RTI training, which is using your interventions to
16 meet the lowest students.
17 On the next page, additional training on how to
18 teach -- we really tried to focus on those students that were
19 in the lowest 25th percentile.
20 We felt that they were the students in the greatest
21 need, the most disadvantaged, and we really tried to say that
22 we want to bring those students up, so we spent a lot of
23 effort in staff development and instruction on that.
24 Q. Dr. Serapiglia, when you focus on the lower level
25 students, can that hurt you in the assessments and

1 proficiency scores and so forth?
2 A. Well, you know, some schools that I communicated
3 with, they do something which may be smarter, in retrospect.
4 They'll say: I'm going to focus on the students
5 not just the lowest, but I'm going to focus on the students
6 just below proficiency, and I'm going to try to get them up
7 to proficiency. I'm going to put, kind of, my eggs in that
8 basket.
9 And I'm not saying that's good or bad. There's
10 some goodness to that. It allows you to get your scores up a
11 little higher.
12 I think, what we did is we put -- not all of our
13 eggs. We certainly had 105 minutes everyday of reading and
14 60 minutes everyday of math.
15 We focused our intervention on the lowest 25th
16 percentile. We brought those kids up a lot. They were
17 brought up more than some of the other kids were brought up.
18 That did affect our data, I think, ultimately.
19 Some other things that were on the professional
20 development, you can see on Page 3, we used -- we had data
21 work sessions, where we would evaluate the data of the
22 students.
23 And who knows how many data work sessions there
24 were. They were frequent.
25 We looked to see: How are the students doing?

1 Look at their scores on the test. What do we do next? How
2 do you we realign our instruction? How do make changes? How
3 do we change our subgroups?
4 So we had many sessions.
5 There was classroom observation and follow-up
6 throughout the time, where we looked to see: Are the
7 teachers using the curriculum?
8 That was done through the -- Ora giving the
9 evaluation of the lesson plans because, on the lesson plans,
10 it shows which standards they were teaching.
11 We looked to see: Are the teachers using the
12 data? Are the teachers using the instructional practices?
13 Are they using the materials?
14 So there was observation as time went on.
15 And then there's a plan, and the principal had
16 considered this right from the beginning, as to having a very
17 large yearly evaluation of the curriculum.
18 You know, you would keep notes, and everybody was
19 directed to keep notes on how they would change things the
20 next year.
21 But we had made a plan that there would be another
22 large scale staff development in June of 2014 to look at the
23 curriculum again to see: Did we make good choices? Is there
24 anything we need to add to that curriculum because our
25 students are still weak in some areas?

1 So we do have that plan.
2 And then there's going to be a data retreat again,
3 in June of 2014, where all the data once again is looked at
4 to see what other determinations we need to make about
5 instruction.
6 Q. Why don't you change the curriculum as soon as you
7 get a piece of data?
8 A. Well, I don't think that's the way you do a
9 curriculum revision.
10 You attempt to work on it because -- like, for
11 example, if one of your items in your curriculum is that the
12 students will be able to find the main idea, and the students
13 are real good at finding the main idea at the beginning,
14 which our students weren't, you're still going to work on
15 that over time.
16 You're going to teach that again and again.
17 You're going to look to see who is having the lowest scores
18 in that. And then you're going to give them additional
19 experience.
20 If you switched out of that and said, "Well, I
21 think that's too hard for them; maybe they just need to find
22 the details instead of the main idea," I think that would
23 be -- first of all, it would be dumbing down what you were
24 doing, and we didn't want to do that.
25 And secondly, we wanted to have more data

1 throughout the year to be able to determine how successful
2 are our students in this curriculum.
3 And we thought that it would be really good to make
4 notes of what we were doing, you know, anecdotal notes; but,
5 however, to do the major revisions in the June time frame.
6 Q. Okay.
7 Maybe we can get on to the next system.
8 The student --
9 A. The student assessment system, that's a huge one.
10 That would be Exhibit 32, or is that Exhibit 6?
11 Do you have that there, Mr. Tucker?
12 Q. Exhibit 32
13 A. Okay. This is Exhibit 32.
14 I'm so sorry if I've made any confusion.
15 It should say on the top of it -- Judge, I'll look
16 at yours and see if you're right with me.
17 Yes, I can see it there.
18 On that page is a summary of our system, and it
19 shows what we had planned to do -- and, by the way, we've
20 implemented every single part of this for reading, for math,
21 for writing, and then the other standardized tests there --
22 each of the months.
23 So you can see from this is it's multiple
24 assessments. NWEA, which is a State standardized test. The
25 AIMS, a State standardized test. AZELLA, standardized test.

1 And multiple assessments -- DIBBLS, and then
2 multiple assessments in classroom assessments related to the
3 Common Core that Pearson and Prentice Hall developed, which
4 are the benchmarks.
5 And then the selection tests. You can see, in
6 reading, that the major way we were planning to evaluate
7 student progress throughout the year was to see how well they
8 did on their selection tests.
9 That was one of the ways -- we tried to collect the
10 data on that the most because we thought that was the most
11 reliable and the most accurate way.
12 And so that's what we did. We collected data on
13 how well the students did on their selection tests, and what
14 was the percent of accuracy they had.
15 And on math, the assessments that we used most
16 frequently were the lesson quizzes. At the end of every so
17 many lessons, there's a quiz.
18 And by the way, these assessments have all been
19 research based. They're not like somebody sat down the night
20 before and wrote up a few questions.
21 These are the ones that are in the instructional
22 system designed by Prentice Hall that have been research
23 based, and those are the ones that we gave.
24 The other assessment, you can see, NWEA, which is
25 the Northwest Educational Association, it's a State

1 assessment that's given in every State in The United States
2 and internationally. So we're going to report some of the
3 scores on that State assessment.
4 The first time we really had that score to be able
5 to report to you is from August -- actually, it was the
6 September score.
7 We also gave that in December. You can see there
8 were some students that did not complete that test. We had a
9 little bit of time in January.
10 But the main time that we're going to be able to
11 get some data is going to be on AIMS, but AIMS isn't going to
12 be administered until April.
13 In the meantime, we are attempting to look at the
14 State standardized test NWEA to determine what kind of growth
15 we have of our students.
16 I think that's maybe an overview. I could go into
17 great depth in any of those, but that's an overview of our
18 assessment system with the multiple assessments over time.
19 Q. I think the overview is what we were looking for.
20 Thank you.
21 A. I'm trying to be brief.
22 Q. You're doing fine.
23 A. The instructional system is the next system I would
24 call your attention to.
25 Maybe a good place to start would be Exhibit 33,

1 and that shows just our academic class schedule.
2 MS. ANDERSON: I'm sorry. I think we have a
3 different Exhibit 33.
4 THE WITNESS: I really tried to be good at this.
5 Exhibit 22.
6 You're going to have the help me on this,
7 Mr. Tucker. Is it 22?
8 It's academic class schedule.
9 I should have that book right in front of me,
10 shouldn't I?
11 ADMINISTRATIVE LAW JUDGE: Yes.
12 And now you do.
13 THE WITNESS: Now I do.
14 Yes, it's Exhibit 22. I'm so sorry.
15 Exhibit 22.
16 BY MR. TUCKER:
17 Q. Okay.
18 A. In that exhibit is our class schedule. I would
19 like to at least start with that because that's part of what
20 our instructional system clarifies for you.
21 You can see that this is the first page, Exhibit
22 22, is for Grade 7.
23 And then the next page, which is Exhibit 23, is for
24 Grade 8.
25 ADMINISTRATIVE LAW JUDGE: Would you do me a favor,

1 please, if you can.
2 We're trying to use prefixes because we've got some
3 numbers for the Board and numbers for the Respondent.
4 THE WITNESS: Which prefix would you like me to
5 use?
6 The Respondent prefix?
7 ADMINISTRATIVE LAW JUDGE: R or Respondent 22.
8 THE WITNESS: All right.
9 Respondent 22 and Respondent 23.
10 Thank you, Judge.
11 BY MR. TUCKER:
12 Q. Okay.
13 A. Respondent 22 Exhibit shows that what we attempted
14 to do in our instructional system is increase the -- not only
15 the quality of the instruction by purchasing a new completely
16 new instructional system, but we wanted to increase the
17 quantity of time. So that's the basis.
18 There's two bases for our instructional system.
19 One is increasing the quality of instruction, and the second
20 is increase the quantity.
21 We have reading now for 105 minutes for the total
22 group in 7th and 8th grade, which is change from last year.
23 I think it's probably an addition of like 40 minutes. I'm
24 not quite sure.
25 And then we have a math block of 60 minutes per

1 day, which is an increase from the year before.
2 And then as you go across the page, you'll see from
3 12:45 to 1:30, 45-minute block there, every day there is a
4 45-minute block, and we call it reading and math
5 intervention.
6 So we've chosen to put into our instructional
7 system not only additional time and additional quality but a
8 time so that we can go back and provide additional teaching
9 to those kids who were in the lowest 25th percentile.
10 We do have a period every day for that for reading
11 and math, and we are using that -- I believe we're using that
12 well.
13 In addition to the quality, another way to describe
14 what we did for quality is, we -- I did allude to this. We
15 purchased the Prentice Hall Pearson entire instructional
16 system, which has all of the materials for teaching reading
17 and math, all of the intervention, all of the assessments.
18 It has professional development. It has on-line
19 tutoring. Has ELL differentiated instructions. It's a very,
20 very comprehensive system.
21 We researched that before we purchased it to try to
22 find what was the very best of the best of materials, and the
23 Board was good enough to put a significant amount of money
24 into purchasing that, and that's what we're using at this
25 time for the instructional system.

1 One other thing is we did reduce the
2 student/teacher ratio.
3 Sometimes, when we're teaching our students, in the
4 intervention system, students might be in a ratio of one
5 teacher to four students because we thought it was important
6 to have teachers to have -- teachers to be able to have
7 enough quality time to address the skills those kids needed.
8 For that 45-minute block, the students might be --
9 I can't say they always are. In many situations, they're in
10 a one-to-four relationship. It's a small group.
11 That is the instructional system.
12 Curriculum revision, that is a huge system. I
13 think I described that very much when I described the
14 professional development.
15 So I don't know if I want to take any additional
16 time, but I do want to refer to that as one of our five
17 systems, the curriculum revision.
18 I don't believe it would be appropriate to review
19 all that again.
20 Q. I don't think it's necessary. I think you did deal
21 with that. I think it's understood.
22 A. We have one more system, and we call that the data
23 driven instructional system and realignment of instruction.
24 To us, that's probably the most important ongoing
25 system that we have.

1 I'm going to look at Exhibit 35.
2 One of the ways that I could describe to you what
3 we do during that system would be Exhibit R-35.
4 Shall I go ahead?
5 BY MR. TUCKER:
6 Q. Yes, please.
7 A. I described before that we get the assessments
8 according to the assessment schedule and plan. So when we
9 give the assessments, we look at the results of the
10 assessments.
11 This is one example. This is what the Prentice
12 Hall system does to help us look at the results. So this is
13 called the item analysis report.
14 And this item analysis report is generated by
15 Pearson Prentice Hall for this specific test. And if you
16 look at it, you can see that the students -- it indicates for
17 each student what their response was on the test.
18 If you look down at question one, the correct
19 answer is C, but three children did not have C.
20 Question B, the correct answer is -- question two,
21 the correct answer is B. Four children didn't have that
22 correct.
23 What a teacher is looking at here is to see which
24 of the questions did most of the students have difficulty
25 with so you can go back and provide instruction on those

1 specific standards and then, in addition, which skills did
2 some of the students miss, so you can go back and provide
3 instruction on that.
4 So when I look at this item analysis and I look
5 down the columns, I can see that many of the students missed
6 Question 11, a number of them missed 2, a number of students
7 missed 12, and the greatest number missed Question 14.
8 So I, as a teacher, know my job then is to go back
9 and teach to those standards. so the instructional system
10 that we design, the data driven decision, is on the next
11 page.
12 If you look at the -- this is still part of this
13 exhibit. So this is part of the second page of Exhibit R-35,
14 You can see this is something that Pearson Prentice Hall
15 generated.
16 So you they tell you Question 2, in Papa's Parrot --
17 that's the selection -- is a more general question for the
18 students to be able to read fiction and be able to answer
19 some general questions.
20 That helps you somewhat, but the next questions
21 help you a lot more.
22 Question No. 11 shows that the students were not as
23 good in being able to draw conclusions from the selections
24 that they read.
25 So then what the teacher would know to do is to go

1 back and provide instruction on drawing conclusions after
2 reading.
3 Question 12, the students had difficulty in
4 distinguishing meaning. So the teacher would know to go back
5 and do that.
6 And then Question 14 was a grammatical issue, using
7 nouns correctly. And then the teacher would go back and
8 teach that to the majority of the students, but then he also
9 could go back, using the item analysis, and teach those
10 specific objectives to those students who needed additional
11 help in those area?
12 Q. So those would be the five systems that you wanted
13 to tell us about?
14 A. Yes.
15 I wanted to mention one other thing about that
16 system. I want to make sure I'm getting it right.
17 State Exhibit R-5 goes along with that system,
18 which is the last of the systems. You know, this is my fifth
19 one.
20 At each juncture of analyzing the data, doing the
21 item analysis, trying to determine what to teach, looking at
22 the materials, and seeing which materials will teach that, we
23 also then regrouped the students as needed.
24 So on State -- not State.
25 Respondent R-5 --

1 Q. I'm sorry, Dr. Serapiglia.
2 What do you mean you, regroup the students?
3 What do you mean by grouping the students?
4 A. What we do is we say: Which students really need
5 some intensive instruction? They're scoring much lower, and
6 we need to be able to put them into the smaller groups that
7 we talked about for those 45 minutes, and we need to really
8 zero in on those standards that they're missing.
9 So we group those kids. We call them the lowest
10 25th percentile students. We made a subgroup for them, and
11 we study their data specifically by themselves, and we call
12 them our tier three students.
13 And they don't stay the same the whole year.
14 That can change based on how they perform on their test.
15 So what we do, at the end of the testing cycle, is
16 we regroup the students as needed, if needed. Frequently,
17 they do need to be grouped.
18 So the tier one of the students are either
19 proficient or near proficient, and we usually let that be a
20 little bit larger group.
21 And then the tier two is nearing proficient also.
22 And the lowest tier, the lowest 25th percentile, is our tier
23 three.
24 I just wanted to point this out because we don't
25 put our students into a track or keep them static, but we

1 allow them to move as they acquire their skills.
2 That's why it's a data driven system. We
3 continuously update based on the data we get.
4 Q. Thank you.
5 I had one other general question before I wish to
6 ask you some specifics. You've talked about NWEA several
7 times.
8 A. Yes.
9 Q. Could you explain what you mean by NWEA and the
10 relevance it has to this proceeding?
11 A. Yes.
12 When we did our DSP, we didn't have any current
13 state assessment data. So we said, we're going to use the
14 NWEA.
15 Let me first of all tell you which exhibit that
16 information is. Let me double-check to make sure I'm telling
17 correctly.
18 That's in our Exhibit R-27, would be the first page
19 of that exhibit.
20 As I said, when we first did the DSP way back in
21 October, we didn't have very good data.
22 We were trying to always be honest, so we presented
23 our data that we had, which was not -- did not show as much
24 growth as we wished.
25 On this chart, this is a printout actually from the

1 NWEA norms. This is something that the NWEA prints out.
2 The NWEA is a State assessment, as I said. It's
3 used by every State in The United States. It's used
4 internationally. They say they've been around for 40 years,
5 so it has a good reputation.
6 We did something interesting when we chose the
7 NWEA. We chose -- we had a choice, when we were deciding,
8 whether to use the standard NWEA, which tests the previous
9 standards from the State of Arizona, or we could use the
10 enhanced NWEA, which tests the Common Core standards.
11 So we made that choice to be challenging to our
12 students, and we chose the NWEA that tests the Common Core
13 standards.
14 So we are now testing our kids at a higher level
15 than some people who are doing the exact same -- they're
16 using a NWEA, but it's a different version.
17 So we are using the version that's called the
18 Common Core Standard Version. The NWEA people were very
19 clear to explain that to me.
20 Even though we did use that version, we got growth
21 in three months, which we are so excited about.
22 It doesn't makeup for all the past, but it does
23 show that with our systems in place now, we can make growth
24 and we are making growth.
25 So I'd like to explain what this chart shows. This

1 is just for this year. When you see fall, that is the fall
2 of this year, and that is the month of September; winter was
3 the month of December.
4 So we're talking about three months.
5 What this template does, what this NWEA test does,
6 is it identifies the students that made improvement and those
7 that didn't make improvement. We thought that was the most
8 important thing we could find out.
9 First of all, what percentage of our students did
10 make improvement on a State standardized test. And secondly,
11 which of our students did and which of our students didn't.
12 I think it's important to know what improvement is
13 on NWEA. I was unclear about this myself until very
14 recently.
15 The way NWEA defines improvement is it's whether or
16 not the students have met their half-year goal, that goal
17 which is established by the NWEA 2011 norms.
18 So my understanding of this, from the NWEA people,
19 is the NWEA people develop norms for each student from their
20 2011 large sample, they determine where the student should be
21 -- a typical student should be at midyear so that they're not
22 falling behind.
23 And then they determine, yes, if they made
24 improvement, if they met that half-year goal; or no, if they
25 didn't make that half-year goal.

1 The way the NWEA people said it is it means that
2 the students who met their goal are well on their way to
3 meeting the end of the year goals. That's why they make the
4 half-year goals. So you know you're on the way to meeting
5 those; you're not falling farther behind.
6 What we found out was, for 7th grade math -- could
7 I take a small drink of water?
8 Q. Yes.
9 For 7th grade math, 9 of the 17 students who took
10 that NWEA test, and we compared their fall to their winter,
11 three months, they improved.
12 One of them remained at the same RIT level. The
13 RIT is the actual absolute score.
14 That meant that 53 percent of our students in math
15 at the 7th grade met their half-year goal, which we were very
16 thrilled. That's better than half.
17 We wanted it to be higher, but we said: 53 percent
18 of our students met their half-year goal, and we know they're
19 well on their way -- the way NWEA says it -- to meet their
20 end-of-year goals.
21 In reading, they did even better. Maybe it's
22 because we have more time in reading. I can't say for sure.
23 But 12 of the 17 students -- when NWEA used their
24 norms from 2011, it was determined that 12 of the 17 students
25 improved, which, as I say, by definition, they met their

1 half-year goal.

2 That means 71 percent of our students met their

3 half-year goal in reading in the 7th grade. We were very

4 excited about that.

5 That was the highest we'd ever gotten on a State

6 achievement test for a while. That was in three Mondays. We

7 felt really good about that.

8 On the next page -- I wonder if that goes to a

9 different exhibit. I don't want to make any more mistakes on

10 that.

11 Q. I believe you're looking for R-6.

12 A. So R-6 is the next exhibit that shows the NWEA

13 scores for the 8th grade.

14 What that does is the same thing that it does for

15 the 7th grade. It shows the percent of students who have met

16 their half-year goal that was established by the NWEA 2011

17 norms.

18 And we found that 25 percent of our students met

19 their half-year goals in math in the 8th grade, and 75

20 percent of our students met their half-year goals in reading

21 at the 8th grade, and are well on their way to making -- the

22 way NWEA says it: Well on their way to he meeting their

23 end-of-year goals.

24 One other very important consideration that NWEA

25 was very clear about, as we talked to them these last weeks,

1 is that we -- in our zest for excellence, we chose to do
2 another thing in addition to selecting the harder NWEA test.
3 We actually used the BIE norms given to the school by the
4 BIE.
5 Q. Dr. Serapiglia, what's the BIE?
6 A. The Bureau of Indian Education for the Navajo
7 tribe.
8 That organization took it about upon themselves to
9 say that instead of their norms being 50 percent achievement
10 would be a cutoff point, they made their norms 60 percent.
11 So the BIE said -- in their infinite wisdom, they
12 said: We want our kids to go more. We want them to catch
13 up. We want them to grow more.
14 I understand their zest. What we did is when we
15 used -- when we got this data, we used the norms that the BIE
16 established, which is a 60 percent cutoff, rather than the
17 norms that NWEA has, which I understand to be 50 percent
18 cutoff.
19 We didn't go back and recalculate because those
20 norms weren't in our software. The norms in our software
21 were the 60 percent.
22 But I would imagine there would just be a slight
23 increase of the number of students that were doing well, that
24 were meeting their achievement goals, but this is an overview
25 of their performance.

1 I could go into more depth at the various grade
2 levels, if needed, or I could just stop here with the
3 overview of the --
4 Q. I think that's sufficient.
5 Did you have any points to make in regard to
6 Exhibit R-15 and the NWEA scores?
7 A. Well, this doesn't show the individual students who
8 made progress or who made improvement. But this shows, is
9 there an increase in the performance of the students during
10 those three months.
11 So exhibit R-15 shows -- once again, it's the NWEA
12 scores from the fall, which is September, to winter, which is
13 December, and it's the percentage of students who were
14 scoring at or near proficiency. We felt that was the easiest
15 way to understand our data.
16 And we compared the percent of students who scored
17 at or near proficiency at the fall and at the winter.
18 As you read across the rows, if you look down where
19 it says, students, 7th grade, fall -- let me just clarify
20 that for you. That is all students in the 7th grade.
21 Their fall scores showed that 47 percent of the
22 students were at or near proficiency. And in the winter, 65
23 percent of the students were at or near proficiency, which
24 was a 18 percent increase in the percentage of students who
25 were at or near proficiency.

1 When we look at the lowest 25th percentile -- and
2 that's something this chart shows that the previous exhibit
3 didn't show.
4 Remember, I said we made a subgroup just for the
5 students who were in the lowest 25th percentile.
6 In the fall, this was not a single student who
7 scored at or near proficiency; zero. So we started off with
8 students in the 7th grade who were very limited in reading.
9 By winter, we had 44 percent of the students at or
10 near proficiency, which is an increase of 44 percent.
11 It shows that we did some substantial improvement
12 for all the students and even greater improvement for our
13 lowest 25 percent of the students.
14 Q. Dr. Serapiglia, I think you've given us a good
15 overview of what you've done academically and testwise and
16 analysiswise.
17 In your experience with KDLO, did you come across
18 other segments of the population there that were important to
19 the educational achievement of the students that you might
20 not typically think about?
21 A. Well, one I felt was very indicative of the school
22 is I got to work with the whole staff at one time,
23 noncertified and certified.
24 We were getting all the staff together at this time
25 in a workshop at this time to see how we could all support

1 the schools in learning.

2 We grouped the staff in groups. I remember this as

3 distinctly as if it were yesterday, working with the bus

4 driver.

5 The bus drivers said they were the most critical to

6 the students learning because they picked those kids every

7 morning.

8 They make sure that those kids are on the bus.

9 They wait for them. They greet for them. They check with

10 their grandmas. They go up into the mountains, on the dirt

11 roads that no public school goes onto.

12 And they felt like they were the primary influence

13 on the students achievement, which I felt very compassionate

14 with them.

15 When I worked with the food service people, they

16 had very interesting similarities. They felt that they were

17 some of the most important people.

18 100 percent of our students are free and reduced

19 lunch. If you have 100 percent of your students that are

20 free and reduced lunch, that means you're feeding all of your

21 students breakfast and lunch every day.

22 And those food service people said: We are making

23 the difference because we are going so far out of the way to

24 get the most nutritious meals.

25 Our students might not have a breakfast, they might

1 not have a lunch, but we are providing something, and we know
2 that's making a difference.
3 It was almost the same for security. They didn't
4 say they were the most critical. They said they were very
5 important because we have very few behavioral incidents.
6 We don't have gang fights. We don't have big
7 fights. We don't have bullying.
8 A lot of people in security felt that it was
9 because we have such tight security. We have full-time
10 security people, we have cameras. They were very clear on
11 that.
12 Last week, when I was at the school -- I didn't
13 elicit this from the person, but the custodial person came up
14 to me and she said: I want to tell you I come to this school
15 45 minutes early every day, before they pay me, because I
16 want this school to be beautiful for my children. I want
17 this to be the most beautiful school and the cleanest school
18 so that the students could really learn.
19 And it is the most beautiful school.
20 So I got a real sense that this school isn't just
21 one that is trying to do academics. Maybe if -- I can't do
22 the maybes.
23 There is a community of support there that ranges
24 more from just the teachers. The teachers, of course, are
25 the core of it, the principal, administration, and the Board.

1 But there is this community of people that, I
2 believe, know the children, they've known them for years,
3 they call them by name, they know their grandmas, they
4 know their uncles, they know whether they're coming to
5 school.
6 By the way, we have a very high attendance rate
7 because of what the bus drivers do. So there are
8 intangibles.
9 We provide health services. We have a full-time
10 nurse. We have many of our students who are -- they could be
11 having health problems.
12 They could be undernutritious. They could have
13 health problems. We attend to their health problems. We
14 attend to their social emotional problems.
15 In Kyrene, when I worked for them, I noticed there
16 wasn't as much support needed for the all the rest of the
17 kinds of issues a student would need.
18 For these students, we had to talk about how they
19 got there in the morning, whether they were fed, whether they
20 had dental.
21 Some students didn't have their glasses. We
22 purchased glasses for them. Some students needed their teeth
23 pulled.
24 We found there was a large community, and that
25 community was very cohesive. And the students, I feel, were

1 very cohesive. They felt a part of each other. They felt
2 like they were a group.
3 When you go into their classroom, you can see that
4 they help each other. They work cooperatively. They support
5 each other.
6 They're not competitive. They're not trying to be
7 mean. They're not trying to outshine one another.
8 They're trying to be harmonious. I see that's
9 another issue that's happening up there.
10 Q. Thank you, Dr. Serapiglia.
11 MR. TUCKER: I have no further questions for you.
12 ADMINISTRATIVE LAW JUDGE: Counsel, do you have
13 cross?
14 MS. ANDERSON: Yes, Your Honor.
15
16 EXAMINATION
17 BY MS. ANDERSON:
18 Q. You're involvement with KDLO charter school did not
19 occur until June of 2013; is that correct?
20 A. That's correct.
21 Q. In the work that you referenced, the meeting in
22 June or July, that was not just the KDLO charter school, but
23 that was also with grades 1 through 6 that are not part of
24 the charter school; is that also correct?
25 A. Correct.

1 Q. I believe it was your testimony that part of what
2 you did in the workshop was to look at the curriculum, to
3 look at the assessments, and the curriculum and assessments
4 were not aligned.
5 You referred Common Core standards. But Arizona
6 calls them the Arizona College and Career Ready Standards,
7 correct?
8 A. Correct.
9 And I'm willing to call them that also. We
10 abbreviate them CC Standards. So Common Core, Career
11 College, we're willing to call them that.
12 Q. So the reading and math curriculum at KDLO was not
13 aligned to the College and Career Ready Standards when you
14 became involved with them in June of 2013?
15 A. That's correct.
16 Q. Dr. Serapiglia, isn't it correct that the
17 transition schedule under which Arizona public schools were
18 required to have full implementation of the College and
19 Career Ready Standards for 7th and 8th grade English language
20 and arts was for the 2012-2013 school year?
21 A. If you have that so, I will say yes.
22 Q. Would you like me to show you this?
23 A. If you'd like, yes.
24 MR. TUCKER: Your Honor, we'll stipulate to that.
25 THE WITNESS: I'll stipulate to that.

1 MS. ANDERSON: Okay.
2 BY MS. ANDERSON:
3 Q. Actually, for the 8th grade, the Department of
4 Education mandated full implementation of the English
5 language arts and literacy, Arizona College and Career Ready
6 Standards, by the '12-13school year; isn't that correct?
7 A. Correct.
8 Q. So for English language arts and literacy for
9 reading, KDLO was two years behind in implementing the
10 College and Career Ready Standards for 8th grade reading,
11 correct?
12 A. Did you say the '12 to '13 year?
13 Q. Yes.
14 A. They are now in the '13 to '14.
15 Q. They're currently in the '13-14 school year.
16 So if the Department of Education mandated full
17 implementation of Arizona College and Career Ready Standards
18 for 8th grade reading in the 2012-2013 school year, then KDLO
19 was two years behind in implementing the Arizona College and
20 Career Ready Standards for reading.
21 A. Do you say there's two years between '12 and '13,
22 and '13 and '14, or is it just one year?
23 Q. I'm sorry.
24 One full year behind?
25 A. One full year.

1 Q. So their full implementation should have occurred
2 last school year?
3 A. Yes.
4 And I don't mean to say that they weren't -- I'm
5 saying that they weren't completely aligned, and that doesn't
6 mean that they didn't have similarities to it because the
7 State standards have many similarities.
8 This is true, they were not completely aligned at
9 that time. They were partially aligned at that time, but not
10 completely.
11 So it is true, it was one year later that they
12 became fully aligned.
13 Q. But the requirement by the Department of Education
14 was that, for 8th grade reading, schools have fully aligned
15 their curriculum to the Arizona College and Career Ready
16 standards in the '12-13 school year?
17 A. Yes, you said that.
18 Q. I believe it was your testimony that prior to your
19 involvement with the school, that the school had not set time
20 aside to specifically instruct the bottom 25 percent of its
21 students?
22 A. That would have occurred -- the intervention would
23 have occurred within their regular time for reading and math,
24 so that it would have occurred within the time.
25 They still provided some instruction, but they

1 didn't say: We're going to have an additional 45 minutes for
2 those students.
3 Yes, that's correct. That additional 45 minutes
4 was developed in the 2013-14 schedule.
5 Q. In terms of what you understand to be the Charter
6 Board's concerns about what KDLO did or did not demonstrate
7 with regard to its professional development, is it your
8 understanding that the Board's concerns with regard to
9 professional development that KDLO just wasn't doing enough
10 of it?
11 A. Well, as I testified, I believe KDLO, in the year
12 2013-14, is doing an extraordinary amount.
13 Q. Okay. But my question to you was: Is it your
14 understanding, as you sit here today, that the Board's
15 concerns about KDLO's professional development was that it
16 wasn't providing enough of it?
17 A. Are you talking about the '13-14 school year or at
18 a different time?
19 I wasn't clear on the time span you're talking
20 about.
21 Q. At the time that the school was required to
22 demonstrate that it was making sufficient progress, which
23 would have November 2013.
24 A. In November 2013.
25 By that time, November 2013, a professional

1 development plan was already in place.
2 So by November of 2013, I believe there was already
3 a very substantial plan in place where, probably, there was
4 like 13 days of professional development already done by
5 November 2013.
6 Q. The five systems that you spoke about -- actually,
7 if we refer to KDLO's Exhibit 16, when was this document
8 created?
9 A. This is a professional development.
10 I would say, probably, within the last month or
11 two. I can't tell you the exact date.
12 We had planned to --
13 Q. Thank you, you've answered my question.
14 A. Thank you.
15 Q. I thought it was your testimony on direct
16 examination that in terms of KDLO's use of the beginning of
17 the year assessment and the Prentice Hall, that that was not
18 something they were going to be using more than once?
19 A. Yes.
20 They were going to be able to use that the first
21 time, and then to see how they did in a couple of months from
22 then.
23 Are you talking about reading?
24 Q. Let's talk about reading.
25 How often is KDLO to be administering the beginning

1 of the year test?
2 A. That test tests a wide range of domains. They
3 tested them once, and then in a couple of months, and that's
4 all.
5 Q. But it looks like, pursuant to School's Exhibit 32,
6 that 7th grade, the assessment plan and schedule is --
7 MR. TUCKER: Excuse me, could you let me get to the
8 exhibit, please.
9 THE WITNESS: Assessment schedule.
10 MS. ANDERSON: School's Exhibit 32.
11 BY MS. ANDERSON:
12 Q. That the assessment plan was for the school to
13 assess the beginning of the year benchmark for reading in
14 August of 2013 and again in October of 2013?
15 A. Correct, those are the two that I talked about.
16 Q. And then for math, that they were to administer the
17 beginning of the year course assessment in August of 2013,
18 administer it again in October of 2013, administer the
19 beginning of the course assessment in December of 2013, and
20 then administer it again at the end of the year in May of
21 2014?
22 A. Yes.
23 So when you asked me the question and I said it was
24 about reading, we planned reading the two times, which show
25 up here.

1 And then the math is even a wider range. That test
2 has every standard that the students are supposed to learn
3 that year.
4 Q. But has the school stuck to this schedule?
5 A. Let's see.
6 I'm going to have to look at my data on that. I
7 know they stuck to the lesson quizzes.
8 As far as my knowledge is, they've been sticking to
9 the schedule very firmly.
10 I'm going to have to revert to looking at my data
11 on that. I don't want to give a wrong answer.
12 Q. In any event, the test that would be administered
13 is that same beginning of the year test that's readministered
14 multiple times?
15 A. Yes.
16 As I said, it's a very wide range. It's like if
17 you were going to administer the AIMS --
18 Q. You've answered my question. Thank you.
19 A. Yes.
20 Q. It's my understanding that your testimony was
21 that -- in fact, you used the word "energetic," that KDLO was
22 energetic in its wanting to use the Arizona College and
23 Career Ready standards and align their curriculum to those
24 standards because those standards are more challenging?
25 A. Yes.

1 Q. Isn't it in fact correct that the whole basis
2 behind the implementation of the College and Career Ready
3 Standards are that students were going to college, and they
4 require -- even though they were graduating from high school,
5 they were still requiring remediation in college?
6 A. Yes, certainly.
7 Q. The standards are more rigorous standards to
8 provide students to be ready for college and a career?
9 A. Yes, that's correct, that's my understanding of
10 those.
11 Q. And these College and Career Ready Standards were
12 adopted by the State Board of Education in June of 2010,
13 correct?
14 A. Correct.
15 Q. You mentioned about some schools possibly opting
16 out of the standards, but that's not an option for Arizona
17 school districts and charter schools, is it?
18 A. Not at this time.
19 I know that the legislature was considering it. I
20 read in the newspaper that they were looking at that as a
21 possibility.
22 I think a bill came up before the legislature, and
23 they did not hold up that bill. So right now, it is not a
24 possibility; that's correct.
25 Q. I believe it was your testimony that the data shows

1 that KDLO brought up the bottom 25 percent performing
2 students a lot.
3 Does that mean -- was that your testimony?
4 A. Yes.
5 Q. Does bringing them up a lot mean they brought them
6 up to proficiency.
7 A. I don't believe they're at proficiency yet. That
8 was just in three months.
9 So my testimony was: In that short three-month
10 period, on the State standardized test, the bottom 25 percent
11 in reading increased 44 percent.
12 I think that was my testimony.
13 Q. When you say a State standardized test, we are
14 talking about the Northwest Education Association test?
15 A. Correct.
16 Q. This isn't a test that the State of Arizona has
17 adopted, correct?
18 A. Has adopted?
19 Q. The Statewide assessment that's adopted by Arizona
20 is the AIMS test?
21 A. Yes.
22 The BIE, which our school is under the BIE, Bureau
23 of Indian Education, they have adopted the NWEA as one of the
24 major assessments because that goes across all States across
25 the nation.

1 The BIE -- since the BIE goes over several States,
2 they wanted to use an assessment that went over several
3 States.
4 So the BIE has mandated, more or less, that our
5 school, a charter school, adopts and gives the NWEA
6 assessment three times a year.
7 Q. But the charter school isn't an BIE school,
8 correct?
9 A. It's not, but we wanted to continue to abide by
10 those kinds of requirements because our kids at the lower
11 grades were with the BIE.
12 We could have not done that, but it seemed sensible
13 so we could look at the students from 6th grade, 5th grade,
14 7th.
15 It would give us a metric that we would be able to
16 use. We looked at that as a valuable metric for us.
17 Q. Let's look at one of the exhibits that pertains to
18 the proficiency of the lowest 25 percent students at KDLO on
19 the NWEA test from fall to winter.
20 If you would, please, look at School's Exhibit 11.
21 A. All right.
22 Q. The lowest 25th percentile of 8th grade students
23 performed at the basic level, correct?
24 A. Let me just look.
25 That's correct.

1 Q. It reflects, on the winter NWEA, that again a
2 hundred percent of the lowest 25th percentile of 8th grade
3 students in reading performed at the basic level?
4 A. That is correct.
5 Q. There is no movement of the lowest 25 percent in
6 8th grade reading out of the basic level?
7 A. That is correct.
8 There was only a movement of 44 percent in reading
9 at the 7th grade, 29 percent in math at the 7th grade, and 25
10 percent at the 8th grade.
11 On my chart --
12 Q. Ma'am, I appreciate you, but you've answered my
13 yes.
14 A. Thank you.
15 Q. If you would, please, refer to School's Exhibit
16 15.
17 A. Yes.
18 Q. It reflects, for 7th grade reading, all students
19 moved from 47 percent to 65 percent in winter, and you
20 proposed that that's an increase in student proficiency of 18
21 percent?
22 A. Yes.
23 Q. Let's look at Exhibit No. 9 -- School's Exhibit
24 No. 9.
25 That's the 7th grade reading performance in

1 2013-2014 on the NWEA?
2 A. What were the figures you just gave me, just so I'm
3 clear?
4 Q. The figures I gave you were the ones in School's
5 Exhibit 15.
6 A. Do you mind telling me them one more time?
7 Q. 47 percent in the fall, 65 percent in the winter,
8 and an increase of 18 percent.
9 A. That's a different exhibit.
10 Q. This indicates the percentage of students scoring
11 at or near proficiency, comparing fall or winter, correct?
12 A. For all students.
13 The exhibit that you just directed me to is for the
14 lowest 25th percentile.
15 Q. Are you looking at Exhibit No. 9?
16 A. Let me make sure. Let me make sure I'm doing it
17 correctly.
18 I believe I'm looking at 9.
19 Q. It's page number -- there's a page number, and it
20 says Page 12 at the bottom corner of the page.
21 A. All right. Ask your question one more time. I'm
22 going to listen carefully.
23 Q. We need to have you to the right exhibit.
24 A. Yes, we do. If you ask me again, I'm going to make
25 sure I'm on the right exhibit.

1 Am I at the right exhibit?
2 Q. You need to be at School's Exhibit 9.
3 A. Does it say: Reading NWEA lowest 25th percentile?
4 Q. No.
5 It says 7th grade reading NWEA.
6 It doesn't say: Lowest percentile.
7 A. Okay.
8 MR. TUCKER: Is there a Bates number?
9 MS. ANDERSON: Yes.
10 That's 12.
11 MR. TUCKER: It's Bates No. 12, Dr. Serapiglia, in
12 the bottom corner.
13 THE WITNESS: Page No. 12.
14 I thought I did this carefully.
15 Thank you, Mr. Tucker.
16 Just a moment.
17 Okay, yes, there it is. All right.
18 BY MS. ANDERSON:
19 Q. School's Exhibit No. 9, which is 7th grade reading
20 NWEA for 2013-2014 shows that, in the fall, six percent of
21 the students scored on NWEA in the proficient level?
22 A. Correct.
23 Q. And in the winter, zero percent of the 7th grade
24 students scored proficient in reading?
25 A. That is correct.

1 Q. And the increase was from between the near
2 proficient -- or, from the basic to the near proficient,
3 correct?
4 A. Yes, many of our students went from basic to near
5 proficient; that's correct.
6 Q. Even the students that moved from basic to near
7 proficient, they're still not proficient on the skills being
8 tested in NWEA, correct?
9 A. No.
10 That's why we call them near proficient. Because
11 it's only winter, and they're near proficient, and it was
12 only three months.
13 That's correct, they're not proficient yet. But
14 they're near proficient.
15 Q. But the increase that's reflected on School's
16 Exhibit 15, the increase of 18 percent --
17 A. Do you want me to explain that?
18 Q. -- that is saying students at or near proficiency,
19 when what School's Exhibit 9 is showing is that that increase
20 is still -- those students are not at proficiency; they're
21 near proficiency?
22 A. That's why, when you look at the first line, at the
23 title of that table, it's the -- the figures -- the percent
24 figures are the percent of students who are scoring at or
25 near proficiency.

1 Q. None of the 7th grade reading -- none of the
2 students taking the 7th grade reading NWEA scored at
3 proficient in the winter?
4 A. Right.
5 When this was determined, it's the percentage of
6 students at or near proficiency.
7 So if you look at the fall, there were 41 percent
8 near, 6 percent at. And if you had 41 and 6, that comes to
9 47, which is the figure in the fall.
10 If you look at the winter, near proficient is 65,
11 proficient is 0. Adding 65 and 0 comes to 65.
12 The percentage of students -- comparing the percent
13 who were at or near proficiency from the fall to the winter
14 increased by 18 percent.
15 It went from 47 to 65. It's just a subtraction
16 problem. 65 minus 47 is an 18 percent increase.
17 Q. But it doesn't account for the six percent of the
18 students who were proficient who then moved backwards and
19 either went into the near proficient or the basic?
20 A. You're correct.
21 What we attempt to do with this chart --
22 Q. Thank you, you've answered my question.
23 And for the 7th grade students -- in School's
24 Exhibit 15, the 7th grade students for reading, the lowest 25
25 percent, in fall, you indicate that there were zero students

1 scoring at or near proficiency; and in the winter, there were
2 44 percent students scoring at or near proficiency with an
3 increase of 44 percent, correct?
4 A. Yes.
5 Q. If we look at School Exhibit 8, which is the 7th
6 grade reading NWEA, lowest 25th percentile, a hundred percent
7 of the students remain --
8 MR. TUCKER: Sorry.
9 Could you allow her to get to the exhibit, please.
10 BY MS. ANDERSON:
11 Q. A hundred percent of the students still remain, in
12 the winter, as basic or nearing proficient; there are no
13 students that achieve proficiency?
14 A. I'm going to explain this one more time so I can
15 try to be as clear as I can.
16 This table -- the figure on this table -- each of
17 the percents is an addition off the percent of students who
18 scored at or near proficiency.
19 So it's an addition of those two categories.
20 Q. But there were no students that scored at
21 proficient, according to --
22 A. That's right. That's why it says 44 percent. If
23 there were 5 there, it would be 49.
24 So what was done to derive this chart is the number
25 of students who were near proficient or at proficient was

1 zero, which is very substantial, in the fall.
2 And then if you add 44 and 0 at the winter, that
3 came to 44 percent, which is what we have on our chart, which
4 is an increase, if you subtract 44 minus 0, of 44 percent.
5 So our chart is trying to represent that the
6 percentage of students who scored at or near proficiency
7 increased.
8 Q. But the 44 percent are students that are scoring
9 near proficient?
10 A. Yes.
11 Q. None of that 44 percent scored proficient?
12 A. Totally correct.
13 That's why we call it at or near.
14 Q. But it's not at proficient because proficient has a
15 different color and a different category entirely.
16 These are all students that are near -- they are
17 nearing proficient or basic.
18 There are no students reflected in School's Exhibit
19 8 that show that they are performing at proficiency?
20 A. I really understand that, and I can see that quite
21 clearly. That's why I said it's an addition of 44 plus 0.
22 That's the students who scored near or at. That's
23 44 plus 0 comes to 44 percent.
24 I totally understand that there is 0 proficient
25 there. I can see that very clearly too, just like you can.

1 Q. And for the 8th grade students, all students for
2 the math NWEA, School's Exhibit 15 reflects that there was
3 actually a decrease in student performance from fall to
4 winter, correct?
5 A. 8th grade math, yes, that is correct.
6 That was our greatest disappointment.
7 Q. And then in the lowest 25 percent for 8th grade
8 math, it's showing, on School's Exhibit 15, that in the fall,
9 there were zero percent students at or near proficient; in
10 the winter, there were 25 percent students at or near
11 proficiency, which represents an increase of 25 percent,
12 correct?
13 A. Yes.
14 Zero percent at or near proficiency in the fall, 25
15 at or near in the winter, with an increase of 25.
16 Q. If you would, refer to School's Exhibit 37, which
17 also reflects the KDLO 8th grade math growth for the lowest
18 25 percent?
19 A. Yes.
20 Q. What is reflected in School's Exhibit 37 is that
21 the 25 percent movement was actually from the basic level to
22 the nearing proficient level, correct?
23 A. That is correct. The same answer that I said
24 before.
25 We were writing on this table the percentage at or

1 near proficiency increase.
2 Q. But the 25 percent increase was not to at
3 proficiency level?
4 A. No, they did not achieve proficiency at this time
5 in the three short months.
6 We are expecting proficiency later, but not in the
7 three months. We didn't get it yet.
8 Q. Could you please refer to School's Exhibit 5.
9 Are the groupings reflected on School's Exhibit 5,
10 are those groupings for math, or for reading, or for what
11 subject?
12 If you don't know, you can say you don't know.
13 A. I don't know that answer.
14 It's going to be one or the other, but I don't
15 know. Sorry.
16 Q. You state that these groupings were based on the
17 results of assessment data?
18 A. Yes, correct, that I know.
19 Q. Is the note at the bottom of the page referring to
20 class groups based on assessment data from February 28, 2013,
21 the correct date?
22 A. 2014.
23 That was just this last February. Just two, three
24 weeks ago.
25 Q. On what assessment are the students grouped by

1 tiers?
2 A. They're grouped by tiers on the NWEA assessment
3 originally.
4 And then they could be grouped by tiers on the
5 selection tests or the lesson quizzes that Prentice Hall
6 makes.
7 We are trying not to keep the kids in those tiers
8 throughout the year, but regroup them as they progress or
9 need additional help.
10 Q. So for what period of time have the students in the
11 7th grade, tier three, lowest 25 percentile been in that same
12 tier?
13 A. I don't have that information, but it does change
14 on a periodic basis.
15 I would imagine -- I don't want to say that exactly
16 because I don't know.
17 It changes every couple of weeks, possibly, as the
18 data changes. I don't happen to have the groupings all
19 throughout the year.
20 Q. What is the distinction between Tier 2 nearing
21 proficiency and the near proficiency students in Tier 1?
22 A. Tier 1 students are much closer, they're like
23 within one or two points. And so we are trying to challenge
24 them a little bit more by giving them a little bit more
25 challenging materials to read, higher level questions,

1 greater amounts of essays in reading.
2 And the students in Tier 2 are -- they're not quite
3 on the cusp yet. They're more, maybe, in the middle of the
4 nearing proficiency group.
5 They're not in the lowest basic group.
6 Q. Since the beginning of the 2013-14 school year,
7 what has been the movement of students within Tier 3 who
8 moved up or moved back down again; do you know?
9 A. I don't have that data. I didn't expect that would
10 be a question.
11 I know it has changed.
12 Q. Do you know which students in Tier 1 are at
13 proficient versus which students in Tier 1 are nearing
14 proficiency?
15 A. I have to look at one of my charts. I can tell you
16 that by looking at the charts.
17 Q. But we don't know what period of time that a
18 particular student was in that particular tier from this
19 exhibit?
20 A. No.
21 This exhibit only tells you -- this exhibit was to
22 show that the data driven instructional system regroups
23 students on a periodic basis so that they're not stuck, so to
24 speak, in the same tier group.
25 The purpose of this wasn't to show changes. It was

1 to just show that it does change, but not to document the
2 types of changes.
3 If you want that data, you want us to get that, I'm
4 sure we could get that. It wouldn't be hard to obtain.
5 That wasn't the purpose of this particular exhibit.
6 Q. Refer to School's Exhibit 27.
7 A. Yes.
8 Q. I believe it was your testimony that the yeses and
9 the noes in the improved column was based on whether
10 students, between the fall and winter administrations of
11 NWEA, met their half-year goal; is that correct?
12 A. Yes, that's correct.
13 Q. How many points is their halfway goal?
14 A. It could vary, depending on the students, depending
15 on the subjects.
16 Several.
17 Q. For Student No. 13, Student No. 13 went up one
18 point?
19 A. Yes.
20 Q. Student No. 13 is indicated as having improved by
21 scoring one additional point between fall and winter, right?
22 A. Yes.
23 What that really means is, in the fall, they were
24 very high scoring.
25 So yes, that does show that in that case it was a

1 small number. Probably because they were so proficient in
2 the beginning.
3 Q. But we don't know what the proficiency cutoff score
4 was for the math NWEA 7th grade scores, correct?
5 A. It doesn't show that here. I could go back.
6 This actually, as I said, is a software printout
7 that NWEA prints out.
8 The students take the test on-line. The tests go
9 automatically into the recording system. NWEA's norm data
10 automatically analyzes the data, and then prints out these
11 documents for us.
12 So the staff doesn't do this based on knowing what
13 the cutoff score is. The software or NWEA does this.
14 Q. NWEA scores students in four categories; basic,
15 nearing proficient, proficient, and advanced; is that
16 correct?
17 A. Yes.
18 Q. So while School's Exhibit No. 27 indicates that 9
19 of 17 students improved, it doesn't reflect whether they
20 started off in basic and they still remained in basic or
21 whether they moved to a different level, does it?
22 A. What NWEA is attempting to do --
23 Q. What I'm asking you is: What is reflected on
24 School's Exhibit 27?
25 A. Yes.

1 What this exhibit is reflecting is showing the
2 improvement, which is which students met their half-year
3 goal. That's what this shows.
4 Q. So a student can improve a score of one point and
5 have met their half-year?
6 A. In that particular case, yes.
7 In some cases, if you notice student 11, theirs was
8 between 220 and 232.
9 So it's not always the same.
10 That's why, when you ask me what's the number,
11 sometimes it's quite divergent. So it depends on the
12 individual students.
13 This is all done through their norm data that they
14 designed in 2011. So the school doesn't manipulate this.
15 This all comes out of the software that NWEA has
16 produced.
17 Q. In School's Exhibit No. 27, it doesn't tell us what
18 scores fall within the basic, what scores fall within the
19 nearing proficient, correct?
20 A. No. That wasn't it's purpose.
21 The purpose of this chart is to show which students
22 met their halfway goal and they're well on their way to
23 meeting their end-of-the-year goal.
24 That's the whole purpose of this.
25 That's the way NWEA stipulates it in their

1 literature.
2 When I spoke to the NWEA representatives, that's
3 the way they explained it.
4 Q. Let's look at School's Exhibit 14.
5 A. All right.
6 Q. This appears to reflect 8th grade math
7 assessment of the NWEA fall and winter administrations,
8 correct?
9 A. Correct.
10 Q. And of the students listed in the school's Exhibit
11 14, only one student made any gain from the fall to the
12 winter administration of the 8th grade math NWEA assessment,
13 correct?
14 A. That's correct.
15 That was very disappointing results for us, and we
16 knew we had to do much more in that area.
17 Gave us a lot of good information about what to do
18 next.
19 Q. But in looking at the winter scores of the four
20 students for whom scores are provided, between fall and
21 winter, other than this one student that scored 219, the
22 remaining students remained at the basic level of
23 performance, correct?
24 A. Yes, this is correct.
25 This is very difficult for us to accept because we

1 wanted greater improvement, and we know we need to stress
2 this more, and that is where we were within the three-month
3 period.
4 Q. It appears that under the NWEA system, you said it
5 sets points for goals?
6 A. Yes, sets half-year goals.
7 Q. It looks like that the year RIT goal for each of
8 these students in the column year RIT goal is six.
9 So does that mean that if these students --
10 A. The number of --
11 Q. -- increase by six points, that they will have met
12 their yearly goal?
13 A. Were you looking at the bottom, where it says the
14 number of students?
15 Q. No.
16 I'm looking at the top portion of the table, where
17 it says: Growth goals at 60th percent.
18 And there's a column that says: Year RIT goal.
19 And there's the number 6 next to each student's
20 name.
21 A. Yes, I believe, in that case, that would be a
22 growth of -- they're expecting -- yes, they must be expecting
23 them to grow, yes.
24 Q. So if they improved six points from their fall
25 score to the end of the year, they will have met their year

1 goal, correct?
2 A. That's what this chart seems to say. That's what I
3 understand it to say.
4 Q. Other than for student KS, who is just nudged into
5 the nearing proficient level, even the achievement of all of
6 these students goal of six points will continue to put these
7 students in the basic performance level, correct?
8 A. Unless we do something different.
9 The whole purpose of this is to do something
10 different.
11 Q. What I'm saying is: Under the NWEA system, if
12 they achieve their year goal, these students will still
13 remain at the basic level of performance other than student
14 KS?
15 A. No, I don't think they would all remain at the
16 basic level.
17 Some would go to the near proficient.
18 They might not go to the proficient, but they
19 wouldn't all remain basic.
20 Q. But none would reach the proficient?
21 A. Right, they might not reach the proficient.
22 So their goal -- what NWEA did --
23 Q. You answered my question.
24 Thank you.
25 MS. ANDERSON: I have no further questions, Your

1 Honor.
2 ADMINISTRATIVE LAW JUDGE: Any redirect?
3 MR. TUCKER: No, Your Honor.
4 ADMINISTRATIVE LAW JUDGE: Thank you.
5 You may step down.
6 MR. TUCKER: I call, for my next witness, Ms. Ora
7 James.
8 THE WITNESS: I'll leave this up here for her.
9
10 ORA JAMES,
11 having been first duly sworn upon her oath by the Notary
12 Public to speak the truth and nothing but the truth, was
13 examined and testified as follows:
14 MR. TUCKER: Your Honor, I don't intend to call
15 Dr. Serapiglia again.
16 May she stay?
17 ADMINISTRATIVE LAW JUDGE: She may.
18 MR. TUCKER: Thank you.
19 Your Honor, if I may, may Ms. James, pursuant to
20 Navajo custom, introduce herself in English and also
21 Navajo and identify her clans?
22 ADMINISTRATIVE LAW JUDGE: Sure.
23 MR. TUCKER: Thank you.
24 THE WITNESS: My name is Ora James.
25 And I'm the principal of Kin dah Lichi'i Olta.

1 And my clans are -- I'm going to say this in Navajo
2 because we are -- you know, that's the way we introduce
3 ourselves
4 (The witness introduced herself in the Navajo
5 language.)
6
7 EXAMINATION
8 BY MR. TUCKER:
9 Q. Thank you, Ms. James.
10 Could you give The Court a little bit of background
11 about your education and professional career?
12 A. My background is -- I'm a graduate from University
13 of Arizona in education, and Northern Arizona University as a
14 reading specialist, and as a reading specialist, special
15 education, and education administration, also, University of
16 Phoenix.
17 Q. And you're presently employed by KDLO in what
18 capacity?
19 A. I was employed with Kin dah Lichi'i Olta' before,
20 back in 2005, 2006, 2007, 2008, 2009, for four years as a
21 principal.
22 After that, I had a break. I worked with
23 Greasewood Springs Community School, a grant school. And
24 then I worked at Rockpoint, as a contract school. And also
25 at Ruparant, as a grant school, also a contract school now,

1 as well.
2 So I have worked at different places working with
3 the Navajo children. So that's my education background.
4 I've been into education for more than 43 years.
5 I've worked as a special education teacher, a
6 regular teacher, and I taught as a reading specialist at
7 Greasewood Springs Community School.
8 Now I'm back at Kin dah Lichi'i, as of March 11.
9 So it's been a year that I'm back over there.
10 I was very surprised when I got back over there,
11 you know, very concerned. So my plan is to really get back
12 in there because of the concern that I have for my Navajo
13 children, or native children, and our children.
14 I care a lot about them. I want them to be
15 educated right. They deserve -- you know, because they need
16 our help, and we need to be there for them, to provide that
17 guidance for them.
18 That's the bottom of my heart, and that's our
19 mission at Kin dah Lichi'i Olta'.
20 Q. Thank you, Ms. James.
21 You said contract schools and grant schools.
22 Correct me if I'm wrong, you're referring to PL-936 for the
23 Indian Self-Determination at contract schools, and then the
24 PL-100-297 grant schools that derive from those contract
25 schools?

1 A. That's right.
2 Q. And they're predominantly -- those types of
3 schools -- some schools used to have charter schools combined
4 with them, correct?
5 A. That's right.
6 Q. I don't want to drag you through -- I don't want
7 you to take you through all of the other things and repeat
8 what Dr. Serapiglia testified about. You were sitting here.
9 Have you implemented what Dr. Serapiglia described
10 for The Court?
11 A. Yes, I did.
12 Q. In the implementation of those educational
13 endeavors, can you explain to The Court what kinds of issues
14 and problems you confront?
15 A. Well, like I said, I was at Kin dah Lichi'i between
16 2005 and 2009, and the charter school was at performing at
17 the time.
18 One year, we were underperforming. But quickly, we
19 had a system and worked very closely with Arizona Department
20 of Education.
21 At the time, the system was very, very different to
22 compared to what we're doing right now.
23 At that time when we went underperforming, we had a
24 team that came up and actually evaluated -- go into the
25 classroom, evaluate all the classrooms, you know, all day

1 long, the next day, and they were there with us, and they met
2 with us.
3 And then later, they sent somebody else to work
4 with us a month. Then they phase it out, a month, two weeks,
5 a week, so forth until we really got back on our feet.
6 At the time, they had a different format that they
7 were using. I was very impressed with that format. I was
8 kind of like comparing the two right now, like what we're
9 using now compared to at that time.
10 At that time, we really received assistance from
11 Arizona Department of Education. I was very impressed with
12 it.
13 To this day, it's not like that. We had a team
14 that came out and just -- you know, we show them all the
15 documents, but not all of it was reviewed according to my,
16 you know, presence there at the meeting.
17 I was kind of like upset, you know, with the whole
18 thing. And I just thought, well, maybe just because we're
19 Native Americans and -- or something. Something went wrong.
20 But anyway, back to I first got back to Kin dah
21 Lichi'i. When I first got back over there, first, of course,
22 I had to evaluate the whole school.
23 First thing I did was check the test scores.
24 Q. Ms. James, I'm going to ask you to -- I think
25 Dr. Serapiglia told us about all we need to know about all

1 that.
2 What I'm going to ask you to do is talk about some
3 of the actual realities that you face at your school that
4 complicates your task.
5 A. Can you repeat that again?
6 Q. I can. I will try not to be quite so wordy.
7 The question I'm asking you is to relate to The
8 Court the unique problems that you confront at KDLO that you
9 might not have at other schools.
10 Dr. Serapiglia dealt with the educational
11 initiatives and so forth, so we won't talk about that.
12 The unique that issues that affect Kin dah Lichi'i
13 Olta'.
14 A. Okay. Like I said, when I got back over there,
15 first of all, I went and checked into the data. And I was
16 very surprised, you know.
17 First, it says that we were underperforming, then a
18 D, and then down to an F.
19 So I -- you know, we had to really quickly, you
20 know, do something about it because I know this was coming
21 up. So I contacted Dr. Serapiglia, and I told her what we
22 were facing.
23 I know Dr. Serapiglia is very knowledgeable in a
24 lot of fields in education, and she has helped a number of
25 schools on the reservation.

1 So my point of view was to get a really good help,
2 somebody that's been dealing with the Navajo children, and
3 really get us back on the road. So we start -- we quickly,
4 you know, started working with that.
5 And then the other thing that I found out was that
6 we -- when I got back there, we had a large number of
7 students that shouldn't be there. They were just taken in,
8 you know.
9 I was objecting to that. But I did the best I
10 could all the way from March -- of course, we did our
11 assessment, AIMS testing, and then it was closing of school.
12 So we had to do the professional development and
13 all that.
14 So that's what happened.
15 And a lot of it has been covered by Dr. Serapiglia
16 as of what we did with our 12 days of professional
17 development.
18 Q. My understanding, just to clarify, that in March
19 2013, when you came to the school, you did discover that your
20 predecessor had, for lack of a better word, packed the
21 school, perhaps, for enrollment purposes, and you had to deal
22 with that issue?
23 A. Yes.
24 There were a lot of principals that went through
25 the school. I don't know whatever happened. I really don't

1 know.

2 For me, when I leave school, I don't take anything

3 with me. I try to leave it there for the kids. It's for the

4 students. That's my heart. I think about the students.

5 And right now, I feel so bad. I want those

6 students to come back up, you know, and they can do it if you

7 really monitor them.

8 Like I said, I had an oversight at the charter

9 school before, and that can be done. So I am planning on

10 doing that again, you know, if we're given the opportunity,

11 and the students can doing it.

12 And I have certified teachers right now, you know,

13 highly qualified teachers. I really want to work with them

14 and get those grades back up.

15 Q. Speaking of your students, what types of issues and

16 problems do your student population present?

17 A. My students at the time -- you know, when you let

18 the children just do whatever they want to do, they can rule

19 the school.

20 Behaviorwise, you know, they didn't have that much

21 interest in school. So when I got back in there, I started

22 talking to them like the way I talk to my kids.

23 And I have a great belief in my own culture way,

24 and the way I raise my own children. That's how I want for

25 the kids.

1 I have six boys and one daughter, and I try to put
2 the responsibility on them so they can grow up to be and have
3 a really good education.
4 That's how I believe in children. That's what I
5 would like to do.
6 Whatever happened, that happened. I want to go
7 move forward, you know. There's a lot of things that
8 happened, but we can't keep pulling it back out and say: You
9 know, this is what happened.
10 I'd like to move on with my students, all of my
11 students at Kin dah Lichi'i Olta'.
12 Like the time when the visit came back in 2007, I
13 believe it was, or 2006, when the team came up to work with
14 us, they actually went to the classroom.
15 And at the time, they told us: You work with
16 kindergarten all the way to 8th grade on a consistent basis.
17 Don't leave 7th and 8th grade aside. Don't leave these other
18 grant school students aside.
19 I oversee the charter school, and I oversee the
20 grant school. So they said: Keep it consistent all the
21 way.
22 And that's what we've been doing.
23 Just recently, we got evaluated by North Central
24 Accreditation. They visit the school, all the way from K
25 through 8, every classroom, everywhere.

1 They visit the classroom, talk to people, and they
2 evaluate all our documents, and we passed it, including 7th
3 and 8th grade.
4 We were rated as, you know, outstanding and were
5 granted again for up to 2019.
6 So that's my goal. I want to move on with the
7 students.
8 MR. TUCKER: I have no further questions.
9 ADMINISTRATIVE LAW JUDGE: You may cross.
10
11 EXAMINATION
12 BY MS. ANDERSON:
13 Q. The team that you mentioned that came in and spent
14 a couple days in there and went into your classrooms, that
15 team was from the Arizona Department of Education, correct?
16 A. That's correct.
17 Q. And that was a result of the school's having
18 performed underperforming for the year 2007, correct?
19 A. That's correct.
20 MS. ANDERSON: I have no further questions, Your
21 Honor.
22 ADMINISTRATIVE LAW JUDGE: Any redirect?
23 MR. TUCKER: No, Your Honor.
24 Next I will call Ms. Christine Wallace.
25 Your Honor, Ms. Wallace just went down stairs.

1 Mr. Key will go down and bring her up.
2 ADMINISTRATIVE LAW JUDGE: Okay.
3 Why don't we take a brief recess, stretch.
4 Off the record.
5 (Brief recess.)
6 ADMINISTRATIVE LAW JUDGE: We're back on the
7 record.
8 CHRISTINE WALLACE,
9 having been first duly sworn upon her oath by the Notary
10 Public to speak the truth and nothing but the truth, was
11 examined and testified as follows:
12
13 EXAMINATION
14 BY MR. TUCKER:
15 Q. Ms. Wallace, could you say your name, and The Court
16 is allowing Navajo people to introduce themselves, as is your
17 custom.
18 Would you, please, for the record.
19 A. Thank you, Mr. Tucker.
20 (The witness introduced herself in Navajo.)
21 Thank you for allowing me to introduce myself.
22 My name is Christine Wallace, and I am a Navajo,
23 representing the Kin dah Lichi'i Olta' School Board, as a
24 member.
25 I have -- with respect to the native culture, I

1 have introduced myself referring to the four clans of my
2 maternal/paternal clan, which determines who we are in our
3 Navajo heritage.
4 Thank you for allowing me to do that.
5 Q. Thank you, Ms. Wallace.
6 Could you give The Court a little background about
7 what you do for a living.
8 A. Okay, thank you.
9 Again, my name is Christine Wallace, and I am a
10 school Board member with Kin dah Lichi'i Olta'.
11 I am by -- my main profession is working with the
12 Navajo Nation Government. I am a public information
13 officer.
14 My main responsibility with the Navajo Nation
15 Government is that I am the main point of contact for people
16 that want to visit the Navajo Nation.
17 My job is similar to what the Arizona office of
18 tourism is responsible for, promoting the State of Arizona.
19 In this case, I promote the Navajo Nation.
20 And in doing so, I promote our government, our
21 history, our culture, and pretty much just promoting the
22 entire Navajo Nation. That is my profession, and as a School
23 Board member.
24 I am a mother. I have four children. Again, also
25 a School Board member with Kin dah Lichi'i Olta'.

1 Q. Ms. Wallace, how long have you been a School Board
2 member?
3 A. I have been a School Board member going on my 7th
4 year this year.
5 Q. How do you get to become a School Board member at
6 KDLO?
7 A. We have an election every four years where we elect
8 our community members to different positions that are open,
9 just like the election process that you would go through with
10 the State and the counties.
11 I represent a community of a population of 1,600,
12 which is Kinlichee. That is where the site -- the school is
13 located.
14 So I was elected into office by my community
15 members.
16 Q. Ms. Wallace, could you explain to The Court a
17 little bit about your community and the students that come to
18 your school?
19 A. Yes. Kinlichee is located in a -- I would say 80
20 percent of Kinlichee is located in a remote area.
21 We are primarily located at the -- what we refer to
22 as Defiance Plateau.
23 And the majority of our students -- I would say 80
24 percent of our students are residents within the Kinlichee
25 community, which is the community that I represent.

1 And I would also say that 80 percent of our
2 students do not have electricity or the modern conveniences
3 of what most of us, maybe, take for granted.
4 Most of the students don't have Internet. 80
5 percent of our roads are dirt roads. When it rains or when
6 it snows, most of the roads are impassable.
7 We have one location in Kinlichee. The road is
8 paved, and then the dirt road begins.
9 And we have about seven students that live just
10 right across the arroyo. We have a bridge that's been in the
11 process of being built for the past 30 years. The bridge has
12 not been built yet.
13 It was unsafe for so many years that the Federal
14 government decided that the bridge was unsafe for the bus to
15 be traveling, so they closed the bridge down. And that
16 bridge has been closed for the past 10 to 15 years now.
17 So it would be very easy for the bus just to cross
18 that bridge just to pick up seven students. It wouldn't be
19 no more than a fourth of a mile.
20 But in this case, Kin dah Lichi'i Olta' bus
21 drivers, the school, goes out of their way -- 11 miles out of
22 their way just to pick up these students to make sure that
23 they're in school everyday.
24 That is the type of environment that most of our
25 students live in.

1 To think about taking these students away from the
2 charter -- or, you know I'm thinking: What are the
3 consequences this will have on our students?
4 It would have a lot of consequences.
5 One would be that we will be displacing some
6 families because the majority of the families that live there
7 don't have a job, they don't have locations or different
8 places to move to.
9 So I think what would happen would be that some of
10 the parents would have to make a choice of either moving in
11 the location of where they're living at right now, which is
12 Kinlichee, and possibly moving with other family members; or,
13 worse case scenario would be, letting the father or mother
14 take one or two of their children and living with another
15 family member, maybe, in a location closer to one of the
16 public schools.
17 So, you know, this is the type of environment that
18 some of our kids are living in. It's not so bad. Some of us
19 are used to it. You know, we've lived there all our lives.
20 We manage. We just learned to live that way.
21 But these kids, you know, we have to make life
22 better for them. And we as leaders need to do that. That's
23 our responsibility as leaders, as elected officials.
24 We are there for the kids. We should be there to
25 make sure they get a good community education. That is our

1 priority and should be our priority.
2 And if we can't offer that as elected officials, I
3 don't see the purpose of being there as leaders if we can't
4 do that for our kids.
5 Q. Ms. Wallace, what are your duties as a Board
6 member?
7 A. My duties as a Board member is to -- we are the
8 main decision and policy maker of the school.
9 We are responsible for making policies and laws,
10 and implementing those policies.
11 Q. Are you able to go in and make operational
12 decisions?
13 A. If it is presented to us, yes, we do.
14 Q. But if it's not, what is done?
15 A. If it's not, then we're never made aware of any of
16 these operation duties.
17 Q. If you go in and tell people which curriculum to
18 teach and how to do things --
19 A. That is referred -- well, we pretty much are told
20 that that is considered to be micromanagement.
21 Q. As a public official, Navajo public official,
22 you're subject to, in a grant school and a charter school,
23 the Federal government, the Navajo government, the Department
24 of Kinlichee Education, and the State Department of
25 Education, and your sponsor is the State Charter Board; is

1 that correct?
2 A. That is correct.
3 It is stated in our policy that we have to comply
4 with all of our Navajo Nation laws.
5 Q. So your main job is to exercise general oversight
6 and leave the day-to-day operation of the school to the chief
7 executive officers?
8 A. That is correct.
9 Q. How do you exercise this oversight?
10 A. We have a monthly Board meeting, which we have the
11 second Wednesday of each month.
12 Q. In that monthly Board meetings, you get reports?
13 A. Yes.
14 Q. I assume you take those reports as true?
15 A. Yes. We get written reports from all the
16 administrative and support staff.
17 Q. Pursuant to exercising your oversight, did you
18 finally find out that you were a failing school and in danger
19 of revocation?
20 A. Yes, we did.
21 Q. When did you find that out?
22 A. Our first notice came through the e-mail on
23 September 13, 2013.
24 Q. That was the notice to your school.
25 When did you personally find out?

1 A. The day that I received the e-mail, September 13.
2 Q. What action did your Board take at that time?
3 A. At the time the notices were sent through e-mail
4 and thereafter, the following meeting, which was in November,
5 we got a full report on the notices that we received.
6 Q. Did you know that you were failing and in danger of
7 revocation before that time?
8 A. No, we didn't.
9 Q. You've talked a little bit about it.
10 Are there other consequences for your community if
11 this school closest?
12 A. Yes, there is.
13 The current school was first funded through the
14 Bureau of Indian Affairs, and it was a boarding school.
15 The first school was built in 1932. And it has
16 been within the community of Kinlichee since 1932.
17 Since then, in 1999, the school got additional
18 funding to build a new school because the other school
19 building, or the other school site, the buildings were
20 getting too old.
21 So BIA determined that most of the buildings were
22 unsafe. So the school decided to build in a different
23 location, which they did.
24 In 1999, they did open the new school, and it has
25 been operating ever since.

1 If you look at it in the sense of the community,
2 the school has always been a historical part of Kinlichee
3 community.
4 And other consequences that we're going to face,
5 again, is that the community will be losing a historical part
6 of what we have come to know as a school, Kinlichee School.
7 Again, we don't have that much economic development
8 within our community. There is no economic development.
9 Majority of the parents are at home. Most of them don't
10 work.
11 So this is the students that we have at our
12 school. If we're going to have to transfer to other schools,
13 that would be like displacing an entire family to do and
14 attend other schools in different locations.
15 MR. TUCKER: I have no further questions.
16 ADMINISTRATIVE LAW JUDGE: Counsel, you may cross.
17 MS. ANDERSON: Thank you, Your Honor.
18
19 EXAMINATION
20 BY MS. ANDERSON:
21 Q. I believe it was your testimony that you've been --
22 this is your seventh year being a Board member, correct?
23 A. I'm sorry.
24 Did I say seven years?
25 Q. I thought you said you were in your seventh year?

1 A. I'm sorry.
2 It was five years. I'm sorry about that.
3 Q. Five years as a Board member?
4 A. Yes.
5 Q. So has the Board been receiving some reports from
6 the charter school over the past five years?
7 A. If there was any, it would have been our
8 administrator that was receiving the notifications.
9 Q. So the Board had no responsibilities for the
10 oversight of the academic performance of this school?
11 A. We do have that responsibility as Board members.
12 Q. You said that you first found out on November 13th
13 about the school being a failing school.
14 What did you find out and from who?
15 A. Actually, that was September 13, that was the first
16 day that we got notice by e-mail from Martha Morgan.
17 It was sent from Martha Morgan, to Board president,
18 Linda Youvella. And then Linda Youvella forwarded that
19 e-mail to the Board.
20 And then we got a full report during the next Board
21 meeting, which is November.
22 Q. So you weren't aware that the Department of
23 Education had assigned Kin dah Lichi'i Olta' a letter grade
24 of an F in the fall of 2013?
25 A. I'm sorry.

1 What was your question again?
2 Q. You didn't find out -- so when did you find out
3 that the Arizona Department of Education had assigned Kin dah
4 Lichi'i Olta' Charter School, 7th and 8th grades, a letter
5 grade of an F?
6 A. September 13, 2013.
7 Q. That information was not from the Board of
8 Education; that was from the Charter Board?
9 A. Yes.
10 Q. Excuse me.
11 That information didn't come from the Department of
12 Education; you said that information came from the Charter
13 Board?
14 A. It came from Martha Morgan.
15 Q. Did you have any information that for school year
16 2012-2013 that Kin dah Lichi'i Olta' had an achievement
17 profile from the Department of Education as a D?
18 A. No, I don't.
19 Q. And you were not aware that for the school year
20 2011-2012 that the Department of Education had assigned Kin
21 dah Lichi'i a profile of underperforming?
22 A. No.
23 Q. Were you aware that the Department of Education had
24 a system by which they assigned letter grades or profiles to
25 schools on a yearly basis?

1 A. No.
2 Q. When students at the charter school graduate from
3 7th grade, they -- excuse me, graduate from 8th grade, they
4 have to go to a district school; is that correct?
5 A. Yes, a public school; or, some of them transfer to
6 other communities.
7 Q. But they have to make a choice of -- they have to
8 attend a school that is not on the reservation?
9 A. Yes.
10 We have Winslow Dormitory. There is also Navajo
11 Prep, where they do have dormitories.
12 MS. ANDERSON: I have no further questions, Your
13 Honor.
14 ADMINISTRATIVE LAW JUDGE: Redirect?
15 MR. TUCKER: No, Your Honor.
16 ADMINISTRATIVE LAW JUDGE: Thank you, Ms. Wallace.
17 You're free to step down.
18 MR. TUCKER: Your Honor, the school rests.
19 ADMINISTRATIVE LAW JUDGE: Which exhibits did the
20 Board have objections to?
21 I'm showing 1, 19, 20, 21, 33 and 34.
22 MS. ANDERSON: Yes, Your Honor.
23 ADMINISTRATIVE LAW JUDGE: Mr. Tucker, any response
24 to the objection?
25 MR. TUCKER: Your Honor, I believe those exhibits

1 have relevance. The Court may weight them however The
2 Court deems appropriate.
3 I think 19, 20 and 21 merely were indicators that
4 the school hadn't looked at the 6th grade scores in
5 planning for the 7th graders.
6 Exhibit 1, 33 and 34 merely demonstrate, as I
7 talked about, the multitude of assessments, filings, and
8 curriculum that are possible.
9 In my opinion, those exhibits are not absolutely
10 critical to my case, but I think they're relevant to
11 matters at issue.
12 ADMINISTRATIVE LAW JUDGE: Those matters, I had no
13 testimony on.
14 I'm going to sustain the objection as to 1, as to
15 19, as to 20, 21, 33 and 34 of Respondent's.
16 Does the Board have any objection to any of the
17 other exhibits that have either been discussed or not
18 discussed?
19 MS. ANDERSON: No, Your Honor.
20 We have previously stipulated to the admission of
21 those without any further foundation.
22 ADMINISTRATIVE LAW JUDGE: Okay.
23 R-2 through 18 are admitted, R-22 to 32 are
24 admitted, and R-35, R-36 and R-37 are admitted.
25 (Respondent's exhibits, as listed above, were

1 admitted.)
2 ADMINISTRATIVE LAW JUDGE: I show that the Board's
3 exhibits have all been admitted.
4 Are you ready for closing statements?
5 MR. TUCKER: Yes, Your Honor.
6 MS. ANDERSON: Yes, Your Honor.
7 ADMINISTRATIVE LAW JUDGE: Why don't we begin with
8 the Board.
9 MS. ANDERSON: In my opening, I said that by
10 statutory definition and purpose, a charter school is
11 established to provide a learning environment that will
12 improve pupil achievement.
13 Unfortunately for the students at KDLO charter
14 school, pupil achievement has fallen so far below that
15 of the rest of the State that its academic performance
16 fails to meet the expectations of both the Arizona State
17 Board for Charter Schools and the Arizona Department of
18 Education.
19 The continuing decline of its student's academic
20 performance is a clear demonstration that KDLO is late
21 to the drawing board.
22 And as a result, has been unwilling or unable to
23 provide a learning environment that improves its pupil's
24 achievement.
25 And as a result, that requires that the charter for

1 to operate KDLO be revoked.
2 The testimony of DeAnna Rowe, the Board's executive
3 director, established that for its student academic
4 avivement during the 2010-11 school year, KDLO earned a
5 State accountability label of underperforming.
6 For the '11-12 school year, it earned a State
7 accountability label of D.
8 And for the '12-13 school year, they earned a State
9 accountability letter grade of a third-year combination
10 of underperforming label D, resulting in its current
11 State accountability letter grade of an F, failing level
12 of performance.
13 The Department, by statute, notified the Board.
14 The Charter Board took a look at how the school was
15 performing under its own academic performance framework.
16 Which in implementing its administrative
17 responsibilities for the charter schools that it
18 sponsored, it is required to adopt an academic
19 performance framework.
20 The framework clearly defines what the expectations
21 are for the charter schools it sponsors, and defines and
22 provides a criteria under which for a school that does
23 not meet the Board's criteria can demonstrate it's
24 making sufficient progress toward making those criteria.
25 The purpose of the Board's academic performance

1 framework is to communicate its academic expectations,
2 to ensure that the charter school that it sponsors is
3 providing a learning environment where a measurable
4 improvement in student achievement, growth, and
5 proficiency can be demonstrated.
6 Ms. Rowe testified as to the measures and the
7 indicators that the Board uses in determining what a
8 charter school's academic performance is.
9 Those measures and indicators are also used by the
10 Department of Education in creating and implementing its
11 own State accountability system.
12 Under the Board's academic performance
13 expectations, a school overall rating can exceed
14 standards, meet standards, not meet standards, or fall
15 far below standards.
16 A charter holder whose schools all perform at meets
17 or exceeds standards for both of the prior two academic
18 years for which academic data is available, meet the
19 Board's expectations.
20 And KDLO is a school that did not meet the Board's
21 standards last year -- or, two years ago, and fell far
22 below the Board standards last year does not meet the
23 Board's academic expectations.
24 So part of the process by which a charter school,
25 by statute, is revoked for academic performance is, if

1 in the Board's judgment, the school has failed to meet
2 the academic performance expectations set forth in the
3 Board's academic framework.
4 The testimony of Ms. Rowe and, of course, the
5 school's performance as reflected on its dashboard
6 clearly demonstrate that the school did not meet the
7 Board's academic performance expectations.
8 So what we move on to next is: Did the school
9 demonstrate it was making sufficient progress toward
10 meeting those Board's academic performance
11 expectations?
12 In order to do that, the Board has, again, in its
13 framework, developed a process.
14 The process by which a school can demonstrate that
15 it's making sufficient progress towards the Board's
16 academic performance expectations is exactly that, a
17 process.
18 The first step is that the school submits a
19 Demonstration of Sufficient Progress, or DSP, document.
20 The academic framework provides the criteria -- the
21 information the school needs to provide to do that, and
22 the criteria by which the Board staff evaluates whether
23 or not the DSP meets those criteria or not, meets what
24 is expected in the academic performance framework.
25 That DSP is -- there's an initial evaluation done

1 of that. That information that was done in this case,
2 the initial evaluation, the results were provided to Kin
3 dah Lichi'i Olta'.
4 They saw, on the initial performance evaluation,
5 what the concerns of the Board were, whether the school
6 was in accordance with the Board's criteria, whether
7 what they were providing was acceptable or not
8 acceptable.
9 Kin dah Lichi'i scored not acceptable in each of
10 those measures.
11 There were comments provided to the school. What
12 were the failings in those particular areas. What was
13 the failing in curriculum and instruction and assessment
14 and professional development and the provision of data,
15 what were the failings that the Board was receiving, why
16 was the school receiving a not acceptable.
17 The Board held a site visit at the school.
18 Again, looking at the school, you told us what you
19 had in place in this DSP document, show us how it is you
20 have it in place, and is there any other information
21 that we need to talk about; in particular, our
22 evaluation of your DSP document.
23 Is there any other information that you can provide
24 that will demonstrate to the Board staff that you are
25 making sufficient progress toward meeting those academic

1 performance expectations?
2 After the site visit, there is an additional 48
3 hours provided to the school. Is there any other
4 documentation that you want the Board staff to look at
5 in completing that subsequent evaluation?
6 True, in it's demonstration process, Kin dah
7 Lichi'i Olta' not only could not demonstrate improved
8 student achievement but the assessment results that it
9 was providing to the Board were flawed, and the school
10 could not demonstrate any analysis of the data that it
11 did have available to it.
12 From its Prentice Hall reading and math assessments
13 to the NWEA, the Northwest Education Evaluation
14 Association Assessment, Kin dah Lichi'i could not tell
15 us, and didn't tell us today, why are the vast students
16 at Kin dah Lichi'i Olta', despite half a year of
17 additional instruction at their school, continuing to
18 fall below the benchmark of where they need to be
19 performing,
20 The answer to this question isn't just because of a
21 remote location, or because of the conditions under
22 which our students are coming to us.
23 The answer to this, why are students not performing
24 where they need to be performing, has to be determined
25 from the very first assessment, and from assessment to

1 assessment, looking at what particular concepts or
2 skills are the students not grasping, and how do we
3 target those concepts or skills for that student as we
4 move that student forward day-to-day, month-to-month,
5 and we move the class forward.
6 Through the demonstration process, KDLO could not
7 and still can't tell us whether and how the bells and
8 whistles that they instituted at the beginning of the
9 school year, the newly purchased reading and math
10 instructional materials, or the method of instruction
11 that they are now using at their school, whether it has
12 improved their student academic performance when
13 compared to student performance at this time last year.
14 We had some data that talked about various
15 performance on various assessments this year, but there
16 is nothing to show, how is this school's students
17 performing this year compared to last year that shows
18 that these students are going to be on the track to meet
19 the Board's academic expectations, so the school can
20 meet the Board's academic expectations next year, so
21 these students are going to be on track to pass the AIMS
22 test.
23 The growth indicator of the Board's framework is
24 based on the student growth percentile methodology.
25 This looks at the individual student's progress from one

1 year to the next compared to the academic peers.
2 The Board's academic framework targets for the
3 meets standards rating sets that expectation that at
4 least half of the students in the school are showing
5 growth that's greater than their academic peers across
6 the State.
7 Kin dah Lichi'i's growth percentile for its
8 students did not meet the Board's standard.
9 Only 39 percent of the students at the school
10 scored better than their academic peers in math on
11 AIMS.
12 Conversely, 61 percent of the students at KDLO did
13 not score as well as their academic peers in math on
14 AIMS.
15 In reading, 77 percent of the students at KDLO did
16 not score as well as their academic peers.
17 The dashboard is reflective also of school's
18 performance and other measures and indicators.
19 The significance of a charter school conducting --
20 let's talk about curriculum for a moment, because that
21 was one of the areas in which the Board found that the
22 school did not demonstrate sufficient progress.
23 Significance of a charter school in conducting an
24 ongoing evaluation or revision of its curriculum is to
25 keep the curriculum up-to-date and to meet its students

1 and teachers needs.
2 It was Mr. Sarmento's evaluation that Kin dah
3 Lichi'i Olta' failed to document or evidence that it was
4 conducting an ongoing evaluation or revision of their
5 implemented curriculum.
6 The testimony was that they implemented new
7 curriculum at the beginning of the school year, but
8 there was no testimony regarding the ongoing evaluation
9 or revision of the curriculum that had been
10 implemented.
11 Student assessment serves as a periodic check of
12 how well students are measured in standards.
13 Assessments also form instruction, identifies areas
14 where students are weak or advanced in the standards
15 that have already been taught.
16 It also tells you whether your teachers'
17 instruction is effective. Are the students mastering
18 the concepts on which you're testing?
19 Kin dah Lichi'i Olta' demonstrated that it was
20 using Prentice Hall and NWEA assessments.
21 It said in its DSP document that it reviewed
22 assessment data, but it was unable and continued to
23 remain unable to demonstrate an analysis of the
24 assessment data. What did we do with the results?
25 It goes back to that why question. What particular

1 concepts or skills are KDLO students not grasping?
2 And how did KDLO realign its instruction based on
3 that data to target those concepts or skills as they
4 move forward in their day-to-day lesson plans and
5 instruction?
6 KDLO provided no evidence with regard to this.
7 Through professional development, teachers learn
8 new skills, and school administration needs to monitor
9 those skills to ensure that those skills are being
10 implemented into student instruction.
11 The evidence has also shown that the school failed
12 to demonstrate that it was monitoring implementation of
13 the information or strategies that were being provided
14 to its teachers during professional development.
15 An effective system works together. An effective
16 system demonstrates increased student growth and
17 proficiency.
18 KDLO's system failed to demonstrate that what it
19 implemented in the way of curriculum, instruction,
20 assessment, and professional development has been
21 improving its student growth in proficiency in math or
22 reading.
23 We know from the scores, from year to year, that
24 it's not doing that. We know from the discussion of the
25 exhibits and what those exhibits are shown with regard

1 to the data that during the 2013-14 school year, KDLO is
2 not demonstrating that it's improving its student growth
3 and proficiency.
4 At the end of the day, we see that what they have
5 put in place for this year for their curriculum and
6 their assessment, instruction, and professional
7 development is not working.
8 Student growth in proficiency at the school
9 continued to fall below the State average growth in
10 proficiency.
11 The data graphs show that students continue to fall
12 far below the NWEA.
13 In the individual Prentice Hall assessments for
14 proficiency, the majority of their students remain at
15 basic or nearing proficient.
16 That's not proficient. Moving a student from basic
17 to nearing proficient is not at proficient.
18 Students that are not at proficiency level are not
19 going to pass the AIMS, they're not going to allow the
20 school to show increase in growth and proficiency.
21 They're currently an F school.
22 The testimony shows there is a long-term systemic
23 failure to provide adequate educational opportunities
24 for its students.
25 This wasn't a surprise. The F wasn't a surprise.

1 Schools have to receive a third-year D before they move
2 to an F.
3 The school should have been moving before the F to
4 begin to examine their systems and to put in place
5 systems that were going to improve their students
6 academic performance.
7 They failed to do that, and their charter to
8 operate the school should be revoked.
9 Thank you.
10 ADMINISTRATIVE LAW JUDGE: Thank you.
11 Mr. Tucker.
12 MR. TUCKER: Thank you, Your Honor.
13 Your Honor, Kin dah Lichi'i is not trying to
14 rewrite history. We can't go back and change history.
15 We failed, KDLO failed.
16 And we sat here today, and we took our lumps
17 because we failed, and we're not making excuses, but we
18 also told you how we're progressing.
19 But discussions of history have very limited
20 value. If you're always looking backwards, you will not
21 progress forward, and it's very unfortunate.
22 I think the problem was evident in the courtroom
23 what some people are diligently researching, learning
24 and implementing and trying their hardest to apply and
25 buy, and other people call it bells and whistles.

1 That's unfortunate because it speaks of a lack of
2 understanding, which means the problem will never really
3 be solved.
4 We can deal with people speaking different
5 language. Mr. Sarmento and Ms. Rowe speak a language
6 that Ms. James and Ms. Serapiglia don't speak.
7 Ms. James probably will never understand exactly
8 what Mr. Sarmento wants in data any more than
9 Mr. Sarmento will probably never understand some of the
10 other experiential keys to education and how important
11 they are.
12 The worlds are different. But I don't know why one
13 world has to lose, and one world has to be assimilated
14 and not have the opportunity to teach the way it wants
15 to because it believes in wisdom, perhaps, instead of
16 knowledge, or numbers instead of data.
17 But it's not really about Ms. James or
18 Mr. Sarmento. I think they're both probably wonderful
19 professional educators.
20 But it is sad when our laws and regulations can't
21 be applied to accommodate difference.
22 I think the revocation process should include a
23 loss component. I think if our laws really were
24 extended from all of our boundaries, we would understand
25 it should have a loss component.

1 The school in a Navajo village is a focal point.
2 People build their lives around it, depend on it, means
3 continuity, stability, and meaning.
4 Perhaps it's not part of the equation, it's not
5 part of being accountable, but how accountable is it
6 when we take it away from their community after it's
7 been there for over a hundred years?
8 The progress, how badly we fool ourselves when we
9 think we have precisely developed what it means by
10 graphs and ratios and so forth.
11 I know it's politically popular. We can all rest
12 well that people are being held accountable, we have a
13 great society, which then gets replaced by universal
14 proficiency, which is now replaced by College and Career
15 Ready, and who knows what's next.
16 But KDLO did show you progress. We didn't quibble
17 about whether we're proficient or not. We know we're
18 not, according to that standard, but we know we've made
19 progress. How sad that that progress will stop.
20 It's always unfortunate when we end up punishing
21 the correctors, and so often that happens.
22 KDLO wants 18 more months, 18 more months to show
23 we're not investing in bells and whistles, we're serious
24 about this.
25 In my opinion, that's exactly what this academic

1 performance framework and guidance is telling us when it
2 says this is just a flag folks, a flag that says
3 something's wrong.
4 When the flag went up in Kinlichee, Board members
5 reacted and brought back an old principal -- excuse me,
6 not old, former.
7 It made changes and showed you progress. They
8 didn't show you a miracle. That's unrealistic. But
9 they did show you progress.
10 When this document says that's a flag and now,
11 before we impose consequences, we have to think about
12 all things, we have to consider all things.
13 I think, when you do consider all things, you would
14 give KDLO 18 months. Give them an opportunity.
15 If we fail again, there will be no excuse, there
16 will be no other alternative. But we are asking for one
17 now.
18 Thank you, Your Honor.
19 ADMINISTRATIVE LAW JUDGE: Thank you.
20 I'm going to keep the record in this matter opened
21 for the limited purpose of receiving the court
22 reporter's transcript.
23 When the Office of Administrative Hearings receives
24 the transcript, I will then issue an order closing the
25 record.

1 After I issue that order, I will then have 20 days
2 to issue an Administrative Law Judge decision. That
3 decision will then be transmitted to the Board within
4 the 20 days.
5 Upon receipt of my Administrative Law Judge
6 decision, the Board has a statutory period upon which to
7 take action.
8 If the Board timely takes action, each of the
9 parties will receive a written order from the Board.
10 If the Board were to not timely take action,
11 statute provides that the director of the Office of
12 Administrative Hearings would certify my decision is the
13 effective decision in the case.
14 If that should occur, each of the parties will
15 receive that director's written order.
16 Under either scenario, there will be a timely
17 effective order. When there is, each of the parties
18 will have further administrative and judicial appeal
19 rights.
20 When the time frame for those have expired, then
21 the case is final.
22 At the conclusion of our hearings, we invite
23 participants to complete an evaluation form for the
24 Office of Administrative Hearings.
25 There should be blank evaluation forms on your

1 desk. If there aren't enough, you can obtain more
2 evaluation forms at the reception desk.
3 If you'd like to complete one, you may do so before
4 you leave the office this afternoon. You may place any
5 completed evaluation form in the black box located on
6 the floor in the hallway outside the hearing room.
7 You cannot take them who home, fill them out, and
8 mail them in.
9 A completion or noncompletion of the evaluation
10 form as no impact on the case that I just heard.
11 If there is nothing further, we will be in recess
12 until the transcript is filed with the Office of
13 Administrative Hearings.
14 Thank you.
15 (Hearing was concluded at 4:36 p.m.)
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1 STATE OF ARIZONA)
2) ss.
3 COUNTY OF MARICOPA)
4 BE IT KNOWN that the foregoing hearing was taken
5 before me, DEBORAH J. BOYETTE, Registered Professional
6 Reporter, Certificate No. 50507, State of Arizona; that the
7 witnesses before testifying were duly sworn to testify to the
8 whole truth; that the questions propounded to the witnesses
9 and answers of the witnesses thereto were taken down by me in
10 shorthand and thereafter reduced to typewriting under my
11 direction; that the foregoing 242 pages constitute a true and
12 accurate transcript of all proceedings had upon the taking of
13 said hearing, all done to the best of my skill and ability.
14 I FURTHER CERTIFY that I am in no way related to
15 any of the parties hereto, nor am I in any way interested in
16 the outcome thereof.
17 DATED at Phoenix, Arizona, this 26th day of March,
18 2014.
19
20
21 Deborah J. Boyette, RPR
Certified Reporter
Certificate No. 50507
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23
24
25