IN THE OFFICE OF THE ADMINISTRATIVE HEARINGS

STATE OF ARIZONA

In the Matter of:	)	No. 14F-FSRV-002-BCS
	)	
FOUNDING FATHERS ACADEMIES,	)	
INC., a non-profit corporation,	)	
operating JEFFERSON ACADEMY OF	)	
ADVANCE LEARNING, a charter	)	
school.	)	
	)	
_____	)	

HEARING

Phoenix, Arizona
March 26, 2014
8:00 o'clock a.m.

Prepared by:
ANGELA FRITTS, RPR
Certified Reporter No. 50615

Dropkin and Associates, Inc.
Certified Court Reporters
7600 North 16th Street
Suite 216
Phoenix, Arizona 85020
(602) 997-8066

ORIGINAL

1 I N D E X

2

3 FOR THE CHARTER BOARD:

4

5 WITNESS: DeAnna Rowe

6

7 EXAMINATION BY: PAGE

8 Ms. Anderson 24, 181, 204

9 Mr. Condos 66, 200

10 Administrative Law Judge 196

11

12 WITNESS: Steve Sarmento

13 Ms. Anderson 206

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EXHIBITS MARKED

FOR THE BOARD:

Exhibit	Description	Admitted
No. 1	Portfolio prepared for Arizona State Board for Charter Schools' meeting of December 9, 2013	12
No. 1-A	Summary prepared for December 9, 2013 meeting	12
No. 1-B	September 6 and 9, 2013 e-mails and August 30, 2013 email to Sandy Stewart re: notification of F letter grade	12
No. 1-C	Letter dated September 12, 2013 to Sandy Stewart, Charter Representative, from Martha Morgan, Director of Charter School Accountability	12
No. 1-D	Letter dated October 17, 2013 to Sandy Stewart from Martha Morgan Email dated November 14, 2013 from Martha Morgan, Director of Charter School Accountability	12
No. 1-E	Demonstration of Sufficient Progress	12
No. 1-F	Demonstration of Sufficient Progress Evaluation Instrument (11/14/2013; 12/2/2013).	12
No. 1-G	Demonstration of Sufficient Progress Evidence Reviewed at Site Visit (11/20/2013).	12
No. 1-H	Performance Management Plan	12
No. 2	Arizona State Board for Charter Schools' Academic Performance Framework and Guidance	12

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Exhibit	Description	Admitted
No. 3	Jefferson Academy's Academic Performance ("Dashboard") for FY2012 and FY2013	12
No. 4	Jefferson Academy's Process for choosing the Math Curriculum	12
No. 5	Class Daily Schedule.	12
No. 6	Yearly Lesson Plans, Jefferson Academy (2nd/3rd grade).	12
No. 6-A	Math	12
No. 6-B	Reading	12
No. 7	Weekly Lesson Plans, Jefferson Academy (Kindergarten, 2nd/3rd grade, 4th/5th grade).	12
No. 7-A	Kindergarten.	12
No. 7-B	2nd/3rd Grade	12
No. 7-C	4th/5th Grade	12
No. 8	Pacing charts and lesson pacing guides, 7th-8th grade, math.	12
No. 8-A	7th Grade	12
No. 8-B	8th Grade	12
No. 9	Arizona College and Career Ready Standards (Kindergarten - Mathematics and Language Arts, 4th, and 5th Grades - Mathematics and Language Arts, and 7th and 8th Grade - Mathematics).	12
No. 9-B	Kindergarten-2nd Grade English Language Arts.	12
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Exhibit	Description	Admitted
No. 9-G	8th Grade Mathematics	12
No. 10	Arizona's College and Career Ready Standards Statewide Implementation Plan (Language Arts and Mathematics).	12
No. 11	Classroom observation notes.	12
No. 12	Paraprofessional Evaluation forms	12
No. 13	Staff Meeting Agendas and Notes (August, September, October, November 2013).	12
No. 14	Excel Sheets Titled 2013 2014 Classes AIMS Probes for Charter Board.	12
No. 15	2012-2013 and 2013-2014 AIMS Web "Summary of Impact of Instructional Program" Reports.	12

* * *

FOR THE CHARTER SCHOOL:

Exhibit	Description	Admitted
No. R	Jefferson Academy ECAP	13
No. S	Jefferson Academy IL Forms	13
No. U	Kami Tate Continuing Education	13
No. V	Kami Tate Letter of Recommendation from Bruce Baker, ADE AZ Leadership Coach	13
No. AA	Procedure for Choosing Math Curriculum	13
No. BB	Samantha Torrez-Baca Continuing Education and Transcript	13
No. CC	Grade 1: AIMSweb Duncan Math	13
No. DD	Grade 1: AIMSweb Duncan Reading	13
No. EE	Grade 1: AIMSweb Davis Math	13
No. FF	Grade 1: AIMSweb Davis Reading	13
No. GG	Grade 2: AIMSweb Martz Math	13
No. HH	Grade 2: AIMSweb Martz Reading	13
No. II	Grade 2: AIMSweb David Reading	13
No. JJ	Grade 3: AIMSweb Martz Reading	13
No. KK	Grade 4: AIMSweb Torrez Math	13
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No. QQ	Grade 6: Stewart Math	13
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No. YY	Letter to Sandy Stewart from DeAnna Rowe dated March 19, 2013	13
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A HEARING was taken upon oral examination by the parties through their respective attorneys before ANGELA FRITTS, RPR, a Certified Reporter in the State of Arizona, at the OFFICE OF ADMINISTRATIVE HEARINGS, 1400 West Washington Street, Suite 101, Phoenix, Arizona, on the 26th day of March, 2014, commencing at 8:00 a.m. of said day. Further, this hearing was taken pursuant to the Arizona Rules of Civil Procedure.

COUNSEL APPEARING:

Kim S. Anderson, Esq.
ASSISTANT ATTORNEY GENERAL
1275 West Washington Street
Phoenix, Arizona 85007
Attorneys for Arizona State Board for Charter Schools

Leonidas G. Condos, Esq.
Kathleen Stillman, Esq.
THE CONDOS LAW OFFICE, P.L.C.
1820 East Ray Road
Chandler, Arizona
Attorneys for the Charter School

Tammy L. Eigenheer
Office of Administrative Hearings
1400 West Washington, Suite 101
Phoenix, Arizona 85007
Administrative Law Judge

1 P R O C E E D I N G S
2 March 26, 2014 8:15 a.m.
3 - - -
4 ADMINISTRATIVE LAW JUDGE: Okay. This is
5 the time set for hearing in the matter of Founding Fathers
6 Academies, Inc., non-profit corporation operating
7 Jefferson Academy of Advanced Learning, a charter school,
8 Docket No. 14F-FSRV-002-BCS.
9 It is March 26th, 2014 at approximately
10 8:15 a.m. My name is Tammy Eigenheer. I am the
11 Administrative Law Judge assigned to this matter.
12 May I have the parties' appearances on the
13 record, beginning with the, we'll begin with The Charter
14 School. Sorry.
15 MR. CONDOS: Morning, Your Honor. My name
16 is Leo Condos and I'm representing Founding Fathers. To
17 my right is Kathy Stillman, my associate attorney who will
18 also be participating in this trial. And directly behind
19 Kathy is Mr. Sandy Stewart who is the president of the
20 corporation and the charter representative and the founder
21 of the school.
22 ADMINISTRATIVE LAW JUDGE: Okay.
23 MS. ANDERSON: Good morning, Your Honor.
24 My name is Kim Anderson and I'm with the Arizona Attorney
25 General's Office, representing The Charter Board. To my

1 right is DeAnna Rowe, she's the Executive Director of the
2 Charter Board. And there's also additional members of the
3 Charter Board, and Debra Sterling from our office, and
4 I'll let them introduce themselves.
5 ADMINISTRATIVE LAW JUDGE: Okay.
6 THE FLOOR: Katie Pullis, the Director of
7 the Charter Board.
8 THE FLOOR: Steve Sarmento, Program and
9 Project Specialist.
10 THE FLOOR: Joanna Medina, Director of
11 School Quality.
12 THE FLOOR: I'm Debra Sterling from the
13 AG's office.
14 ADMINISTRATIVE LAW JUDGE: Okay. Then if
15 there's nothing to be addressed before we get started
16 we'll go ahead and start with opening statements.
17 MS. ANDERSON: Your Honor, actually we do
18 have a few preliminary matters --
19 ADMINISTRATIVE LAW JUDGE: Okay.
20 MS. ANDERSON: -- while we're on the
21 record.
22 ADMINISTRATIVE LAW JUDGE: Okay.
23 MS. ANDERSON: The first is that I would
24 under Rule 2-19-118 of the Arizona Administrative Code
25 request that witnesses be secluded from the hearing until

1 they testify.
2 ADMINISTRATIVE LAW JUDGE: Okay. With the
3 invocation of the rule all fact witnesses are asked to
4 leave the room. You're not allowed to discuss your
5 testimony with anyone else or discuss anyone's testimony
6 after they've testified. We will call you individually
7 when it's time to come in and testify.
8 Any violation of the rule can result in
9 your testimony being excluded. So, just be advised that
10 you can sit out there and play on your phone or do
11 whatever you want, but please don't discuss the case.
12 So, at this time I would ask everyone who's
13 just a fact witness to please leave the room.
14 MR. CONDOS: Your Honor, we'd ask for Sandy
15 here to be allowed to stay since he's the primary
16 representative.
17 ADMINISTRATIVE LAW JUDGE: Yes.
18 MS. ANDERSON: And we would request the
19 same of Ms. Rowe.
20 ADMINISTRATIVE LAW JUDGE: Yes, indeed.
21 (Witnesses left the hearing room.)
22 MS. ANDERSON: We also have -- we've also
23 had a discussion and have some agreement with regard to
24 the stipulation of some of the exhibits.
25 ADMINISTRATIVE LAW JUDGE: Perfect.

1 MS. ANDERSON: With regard to The Board's
2 exhibits there's two issues. One is with the exception of
3 Exhibit 1-I and J The School has stipulated to the
4 admission of all the exhibits without need for foundation.
5 Of those remaining exhibits there are four exhibits of The
6 Board that we are not going to move, including that
7 stipulation at this time, because in reviewing and our
8 preparation of the witnesses we determined that we did not
9 use those exhibits so I didn't want to include exhibits in
10 there that we didn't use. So, those exhibits that we
11 would not be using would be: 6-C, 9-A, 9-C, and 9-D.
12 And with regard to Board Exhibit 1-I and
13 1-J the parties have agreed that those portions of that
14 exhibit are not relevant to these proceedings. The Board
15 withdrew those two exhibits and did not include those in
16 the notebook before you. That would be 1-I and 1-J.
17 ADMINISTRATIVE LAW JUDGE: Okay. So, we
18 have 1-A through H; 2, 3, 4, 5; 6-A and B; 7-A through C;
19 8-A and B; 9-B, E, F, G; and then 10 through 15?
20 MS. ANDERSON: Yes, Your Honor.
21 ADMINISTRATIVE LAW JUDGE: Okay. Then
22 those will be admitted into evidence.
23 (The Board's exhibits were admitted.)
24 MS. ANDERSON: We also have stipulations
25 with regard to The School's exhibits. Do you want to do

1 that now or did you want to --
2 MR. CONDOS: You can go ahead, you're doing
3 a great job.
4 MS. ANDERSON: Okay. The School exhibits
5 that we have stipulated to with regard to their admission
6 is: R, S, U, V, AA through TT.
7 ADMINISTRATIVE LAW JUDGE: I'm sorry,
8 through TT?
9 MS. ANDERSON: Yes.
10 ADMINISTRATIVE LAW JUDGE: Okay.
11 MS. ANDERSON: YY, ZZ, and DDD.
12 ADMINISTRATIVE LAW JUDGE: Okay. Then
13 those exhibits will be admitted into evidence at this
14 time.
15 (The Charter School's exhibits
16 were admitted.)
17 MS. ANDERSON: And those are the only
18 pre-matters that The Board has.
19 ADMINISTRATIVE LAW JUDGE: Anything from
20 The Charter?
21 MR. CONDOS: Nope, she laid it out
22 perfectly.
23 ADMINISTRATIVE LAW JUDGE: Okay. Then
24 we'll move on to opening statements.
25 MS. ANDERSON: Thank you, Your Honor.

1 Charter schools are public schools that are
2 established with a contract, also known as a charter
3 between a sponsor and a public body or a private person or
4 private organization. The Charter at issue today was
5 entered into between the Arizona State Board for Charter
6 Schools and Non-Profit Educational Corporation Founding
7 Fathers Academies, Incorporated, to operate charter school
8 Jefferson Academy of Advanced Learning to educate students
9 in grade kindergarten through 12.
10 By its statutory definition and purpose a
11 charter school is established to provide a learning
12 environment that will improve pupil achievement. One of
13 the mechanisms by which a determination is made as to
14 whether a charter school is determined to be improving
15 pupil achievement, one of the mechanism is the Arizona
16 Department of Education's annual achievement profiles.
17 In November of 2001 Arizona voters approved
18 Proposition 301 that among other things required the
19 Arizona Department of Education to develop a system to
20 measure school performance based on student achievement,
21 including student performance on Arizona standardized,
22 statewide standardized tests, the Arizona instrument to
23 measure standards also called the AIMS Test. Under this
24 system the Arizona Department of Education compiles
25 student performance data into a yearly profile for every

1 charter school and school district in the state and the
2 achievement profiles classify schools using a letter grade
3 system. "A" are schools that demonstrate an excellent
4 level of performance. "B" schools that demonstrate an
5 above-average level of performance. "C" are schools that
6 demonstrate an average level of performance. "D" are
7 schools that demonstrate a below average level of
8 performance. And "F" are schools that demonstrate a
9 failing level of performance.
10 Two years ago the grade system was
11 transitioned from a labeling system. The labels were
12 excelling, highly performing, performing, under
13 performing, and failing to meet academic standards, and
14 correspond similarly to the letter grade system.
15 If a school is assigned a letter grade of
16 "D" and/or an underperforming label or a combination of
17 the two for three consecutive years the Department of
18 Education reviews the school's data and it provides a
19 process through which the school can appeal its assignment
20 of its third-year "D" and present mitigating factors for
21 its performance. If the school is not successful in it's
22 appeal then the Department of Education assigns them a
23 letter grade of "F".
24 If a charter school is assigned a letter
25 grade of "F" the Department of Education notifies the

1 charter school sponsor and the sponsor has to take action
2 to either restore the charter to acceptable performance or
3 to revoke the charter school's charter.
4 Jefferson Academy Charter School that has
5 been assigned a letter grade of "F." It was assigned a
6 letter grade of "F" because for school year 2010-2011 it's
7 achievement profile was a label of underperforming and a
8 letter grade of "D." For school year 2011-2012 it's
9 achievement profile was a letter grade of "D." And for
10 school year 2012-2013 it was a third-year "D" that was
11 assigned a letter grade of "F."
12 Parallel to the Department of Education's
13 yearly achievement profiling of Arizona public schools the
14 Arizona State Board for Charter Schools as well has
15 adopted a framework for the charter schools that it
16 sponsors and that framework sets forth the academic
17 expectations that it has for the schools that it sponsors.
18 It's adoption of a framework sets forth the academic
19 performance expectations of the charter schools it
20 sponsors and the measurement of sufficient progress toward
21 the academic performance expectations. The framework is
22 required by statute.
23 Jefferson Academy's performance under the
24 Charter Board's academic performance framework is that
25 this school it does not meet the Charter Board's academic

1 performance expectations. Jefferson Academy's academic
2 performance in 2013 is preceded by its acumen and
3 performance for the 2011-12 school year in which it also
4 did not meet the Board's expectations, performance
5 expectations, nor was Jefferson Academy able to
6 demonstrate to the Charter Board that it was making
7 sufficient progress toward meeting those academic
8 performance expectations. Jefferson Academy failed to
9 demonstrate the implementation of a system of curriculum,
10 instruction, student assessment tools, professional
11 development that work together and resulted in measurable
12 improvement in its students' academic growth and
13 proficiency.
14 Because of Jefferson Academy's letter grade
15 of "F", it's ongoing failure to meet The Board's academic
16 expectations and its failure to demonstrate sufficient
17 progress toward meeting those performance expectations the
18 Charter Board wanted to issue a letter of intent to revoke
19 the charter of Founding Fathers to operate its charter
20 school.
21 In the hearing you'll hear from DeAnna
22 Rowe, she's the Charter Board's Executive Director and
23 she'll take you through the Charter Board's academic
24 performance framework, the mechanisms that are used by the
25 Charter Board in identifying its academic expectations and

1 the process for schools that don't meet the expectations
2 to identify and evaluate whether they're making sufficient
3 progress toward that end. She'll also take you through
4 the details of Jefferson Academy's failed academic
5 performance under the charter framework.
6 You'll also hear from Steve Sarmento. He's
7 the Charter Board's Program and Project Specialist and
8 he'll take you through his evaluation of the Jefferson
9 Academy's curriculum, instruction, student assessment
10 tools, professional development, and student growth and
11 proficiency data, and his findings upon which The Board
12 determined that Founding Fathers failed to demonstrate
13 that it was making sufficient progress toward The Board's
14 academic performance expectations, which led to its
15 decision to revoke its charter.
16 At the conclusion of the hearing The Board is
17 confident that you will find that The Board has
18 established that Founding Fathers has failed to meet or
19 make sufficient progress toward the academic performance
20 expectations set forth in the performance framework and
21 that its charter should be revoked. Thank you.
22 ADMINISTRATIVE LAW JUDGE: Thank you.
23 MR. CONDOS: Thank you.
24 Your Honor, the Founding Fathers school was
25 created in Show Low, Arizona up in the mountains there.

1 The caliber of students that they are teaching right now
2 one could easily and would easily qualify them as
3 high-risk. They have, approximately, 165 students, 30 to
4 35 percent of those students are special education and not
5 just normal special education, but are autistic,
6 Asperger's, and other more severe type of special
7 education students that are not the norm -- if there is a
8 norm for special education students. Seventy percent or
9 more are free and reduced lunch. The school has a high
10 number of students from high poverty. They also have a
11 number of homeless students that attend this school. Most
12 of the students that come into the school, and especially
13 in the last four years, are coming from substantially
14 below grade level. So the school is obligated, obviously,
15 to take them at that level and try to bring them up as
16 much as they can. The evidence will show that all the
17 students are increasing in their educational abilities
18 while at Founding Fathers.
19 Now, the charter contract and the statute
20 does say that the three-points that charter schools are
21 created for. One is to provide a learning environment for
22 students and their education. Two is to give the parents
23 a choice of schools where they can send their students.
24 And the third one is that they don't have to operate --
25 they're created as an alternative to the traditional

1 public school system. So, they're different than the
2 average school. Now, they're obligated, obviously, to
3 teach the, you know, the guidelines and they're subject to
4 take the test and that's where the problem comes in, Your
5 Honor.
6 This school prior to the institution of the
7 grade levels set with respect to last year, which also had
8 the terms as well as a grade level, had been a performing
9 or performing plus type school. During that period of
10 time they experienced a rapid increase of students who
11 were basically sent away from the traditional school
12 district for a number of reasons, most of which had to do
13 with their abilities, grade levels, and scores and their
14 special needs. This school became, by necessity in the
15 Show Low area, as the school for children who had normal
16 problems, you know, in school such as bullying, such as
17 the lack of providing appropriate special education. In
18 fact, the two pediatricians in the area refer this school
19 to people who have children with special needs. That has
20 illustrated and manifested itself since the revocation
21 with a high number of parents coming forward and saying we
22 need to save this school. You'll hear testimony from a
23 number of parents, you'll hear -- see letters that were
24 voluntarily written at the behest of the Parent Board of
25 the School all of which will tell stories of the

1 difficulties those parents had until they came to this
2 school and they will also tell stories about how the
3 school has improved their child's education.
4 Now, when we went, "we" being The State,
5 went to this grade level system you'll hear that there's a
6 manifest and fundamental problem with the test. The
7 test -- students who come from high poverty levels have a
8 lower grade than other students, even to the point of
9 possibly 40 to 45 points. If those 40-45 points were
10 added in you'll see that this school would no longer be a
11 failing school or a "D" school. And it should be pointed
12 out that they were never an "F" school. The statute makes
13 them an "F" school, because they had three Ds. And the
14 statute imposes upon the State Board for Charter Schools
15 to make a choice. Either you fix the school or try to
16 help them fix it or you can revoke them. They've chosen
17 the latter.
18 You'll also hear that with respect to the
19 testing the only really use of scores of the full academic
20 year students, out of the 165 about 70 to 75 actually
21 qualify into that full academic year, and of those about a
22 third or so are special education who still have to take
23 the exact test as students without special education
24 restrictions have to take. So, the fallacy is that the
25 AIMS Test itself is skewed against students from

1 high-poverty areas or from high-poverty families.
2 You'll also hear that there seems to have
3 been a tendency with respect to revocation and closing of
4 schools to focus more on schools in the high-poverty area,
5 smaller schools, minority schools, those kind of schools
6 who have a harder time at teaching who reach and receive
7 children who are in a lower level and not up to grade
8 level.
9 We'll provide evidence that The School is
10 making improvements, measurable improvements with all the
11 students that are there. Much of the examination and
12 review of these tests and criteria are subjective. You
13 know, what is an appropriate -- The State argues that they
14 didn't provide evidence illustrating methods. They say
15 that they didn't provide evidence to show that the
16 teachers are meeting for leadership, because it's not in
17 writing. Even though you'll hear evidence that all these
18 took place and are taking place.
19 In addition the statute gives the school a
20 minimum of 60 days to correct any defects that may have
21 been a reason for the letter of intent to revoke. If the
22 hearing judge doesn't feel that they showed it before, I
23 believe that we'll be showing evidence that they have made
24 some dramatic changes and consistent changes to help the
25 school to be a major source and increase the students'

education.

They do have good -- they do have a learning environment that helps the students. Parents are going to illustrate by almost unanimous agreement that it is their choice for them to send their child to the school and if they don't go to this high school then they don't know what's going to happen to their kids, because the traditional school districts up there is where they took them out, where the kids suffered bullying, where the kids didn't get the appropriate treatment.

So, when everything is over with we feel very confident that the hearing judge will realize that this school is not one who should be revoked and should be allowed to continue to go forward. Thank you.

ADMINISTRATIVE LAW JUDGE: Your first witness?

MS. ANDERSON: Thank you, Your Honor. The Board calls DeAnna Rowe.

DEANNA ROWE,

called as a witness herein, having been first duly sworn by the Administrative Law Judge to speak the whole truth and nothing but the truth, was examined and testified as follows:

THE WITNESS: I do.

1 ADMINISTRATIVE LAW JUDGE: Would, please,
2 state your name, spelling it for the record.
3 THE WITNESS: DeAnna Rowe. D-E-A-N-N-A,
4 R-O-W-E.
5 ADMINISTRATIVE LAW JUDGE: Please proceed.
6
7 DIRECT EXAMINATION
8
9 BY MS. ANDERSON:
10 Q. Ms. Rowe, are you currently employed and what is
11 your position there?
12 A. I am the Executive Director at the Arizona State
13 Board for Charter Schools.
14 Q. And how long have you been employed at the
15 Arizona State Board for Charter Schools?
16 A. For almost 13 years.
17 Q. And what is your educational and professional
18 background and experience?
19 A. I have a bachelor's degree in business
20 administration and a master's degree in education with an
21 emphasis in curriculum and instruction. I was a high
22 school teacher for ten years prior to operating a charter
23 school for four years before coming to work for The Board.
24 Q. And what are your duties as Executive Director?
25 A. I'm responsible for the administration of the

1 agencies' operations and the supervision and oversight of
2 the staff that is charged with implementing The Board's
3 policies.
4 Q. And as part of your duties are you charged with
5 monitoring the academic performance of charter schools
6 sponsored by the Arizona State Board for Charter Schools?
7 A. Yes.
8 Q. Are you familiar with the Charter School
9 Jefferson Academy of Advanced Learning?
10 A. I am, yes.
11 Q. Does Jefferson Academy operate a charter school
12 pursuant to a charter contract between Founding Fathers
13 Academies, Incorporated and the Arizona State Board for
14 Charter Schools?
15 A. Yes, it does.
16 Q. And when did Founding Fathers first begin
17 operating the charter school pursuant to a charter
18 contract with the Charter Board?
19 A. 2003.
20 Q. Who is Founding Father's current charter
21 representative?
22 A. That would be Sandy Stewart.
23 Q. And what are the duties and responsibilities of
24 a charter representative?
25 A. A charter representative is the individual

1 identified by the charter holder, in this case Founding
2 Fathers, who is the primary point of contact. They are
3 the individual who has the authority on behalf of the
4 charter holder to enter into legal contracts or bind the
5 organization with regard to its charter school operations.
6 As its primary point of contact The Charter Board relies
7 on the charter representative to communicate with the
8 charter holder and ensure compliance and accountability
9 with regard to the operations of its school.
10 Q. When you say, "charter holder," what entity are
11 you referring to?
12 A. Founding Fathers.
13 Q. What grades does Founding Fathers serve?
14 A. Founding Fathers is approved to serve grades
15 kindergarten on through to 12th grade.
16 Q. And where is Jefferson Academy located?
17 A. It's in Show Low.
18 Q. Approximately how many students does Jefferson
19 Academy currently report are attending the charter school?
20 A. Their average daily membership is approximately
21 150 students.
22 Q. Does the Arizona Department of Education compile
23 achievement profiles for district and charter schools?
24 A. It does, yes.
25 Q. And is this done on a yearly basis?

1 A. Yes, it is.
2 Q. Is the Department of Education's assignment of
3 an achievement profile based in part on the extent of
4 academic progress or growth that is made by pupils at a
5 particular school during the course of the school year?
6 A. Yes, it is.
7 Q. And is the Department of Education's assignment
8 of an academic achievement profile based in part on the
9 school's students' test performance on standardized state
10 testing?
11 A. Yes.
12 Q. And is the assignment of achievement profiles
13 are schools currently assigned letter grades?
14 A. They are, yes.
15 Q. And what grades can be assigned?
16 A. Schools can be assigned a letter grade of an A,
17 B, a C, a D, or an F.
18 Q. And if a school is assigned a letter grade of
19 "D" under the Department of Education's achievement
20 profile does it mean the school is demonstrating a
21 below-average level of performance?
22 A. That's correct.
23 Q. Prior to the assignment of letter grades did the
24 Department of Education use a different classification?
25 A. Yes, they were labels that are now called Legacy

1 Labels.
2 Q. And what were those Legacy Labels?
3 A. Legacy Labels could be excelling, highly
4 performing, performing, underperforming, or failing to
5 meet standards.
6 Q. Did the Department of Education transition from
7 using these descriptive labels to using letter grades?
8 A. It did, yes.
9 Q. And are the schools' letter grades published by
10 The Department of Education in the early summer or late
11 fall of each year?
12 A. Yes.
13 Q. In September of 2011 what achievement profile
14 was assigned to Jefferson Academy by the Arizona
15 Department of Education?
16 A. In 2011 Jefferson Academy had a Legacy Label of
17 underperforming and a letter grade of "D."
18 Q. And was the underperforming profile and letter
19 grade of "D" representative of Jefferson Academy's
20 academic performance during the 2010-11 school year?
21 A. Yes, that is correct.
22 Q. In August of 2012 what achievement profile was
23 assigned to Jefferson Academy by The Arizona Department of
24 Education.
25 A. In 2012 Jefferson Academy earned a letter grade

of "D."

Q. And was the letter grade of "D" representative of Jefferson's academic performance during the 2011-12 school year?

A. That would be correct, yes.

Q. And is it possible for a school to be assigned a letter grade of "F?"

A. It is, yes.

Q. And how does that occur?

A. In a -- if a letter grade of a "D" is assigned for a third consecutive year the department has a process of appeal where the school can then contest the letter grade of a "D" and after the conclusion of an appeal hearing a determination is made as to whether or not a different letter grade should be assigned and/or if that letter grade should be an "F."

Q. Does an achievement profile of "F" designate that the school demonstrates a failing level of performance?

A. That is correct.

Q. If a charter school is assigned a letter grade of "F" what happens next?

A. So, when a charter school is assigned a letter grade of an "F" the department notifies The Board of that designation and then the Charter Board must determine

1 whether or not to restore the charter school to adequate
2 performance or to revoke the charter.
3 Q. In September of 2013 was the Charter Board
4 notified by The Department of Education that Jefferson
5 Academy was assigned a letter grade of "F?"
6 A. Yes, it was.
7 Q. And was that letter grade of "F" representative
8 of Jefferson Academy's academic performance during the
9 2012-2013 school year?
10 A. That is correct, yes.
11 Q. How does the Board determine what action it will
12 take, whether it will restore a charter school or whether
13 it will revoke a charter school's charter?
14 A. The Board has criteria set forth in its academic
15 performance framework that it uses to determine whether or
16 not the school is demonstrating sufficient progress toward
17 the academic standard, make a determination whether to
18 restore the charter to adequate performance or to revoke
19 the charter.
20 Q. With regard to the Charter Board's academic
21 performance expectation of its charter schools that it
22 sponsors you stated that the Charter Board has developed
23 what it calls an academic performance framework; is that
24 correct?
25 A. That is correct.

1 Q. And why did the Charter Board develop this
2 framework?
3 A. It was required in statute to do so.
4 Q. And what's the purpose of the academic
5 performance framework?
6 A. The academic performance framework is
7 established to communicate the academic expectations of
8 the charter school that it sponsors to ensure that the
9 schools are providing a learning environment where
10 measurable improvement can be demonstrated.
11 Q. And would you, please, refer to The Board's
12 Exhibit 2. What is contained in The Board's Exhibit 2?
13 A. This is The Board's academic performance
14 framework and guidance document.
15 Q. And what is it that is being communicated by The
16 Board through its academic performance framework and
17 guidance?
18 A. The academic performance and guidance document
19 provides the academic expectations of The Board. It
20 includes the means for measuring or demonstrating how
21 those academic expectations can be met and then it
22 additionally for those charter schools that don't meet The
23 Board's academic expectations the framework provides a
24 process by which a school can demonstrate it's making
25 sufficient progress toward those expectations.

1 Q. How is the academic performance framework
2 developed?
3 A. The academic performance framework was developed
4 first by looking at national best practice and then The
5 Board convened its academic subcommittee and collected
6 input from state holders, including charter operators and
7 data experts in the charter field to establish the
8 indicators to measure metric and targets that would be
9 used by The Board in its framework, along with a
10 methodology that would be used for those calculations.
11 After the discussions and the completion of those meetings
12 of the subcommittee the framework was proposed to the full
13 board and adopted.
14 Q. And when did The Board adopt its academic
15 performance framework?
16 A. It was first adopted in October of 2012.
17 Q. Was that done in a public meeting?
18 A. It was, yes.
19 Q. And upon its adoption did The Board publish the
20 framework on its website?
21 A. It did, yes.
22 Q. And has it remained available on The Board's
23 website?
24 A. It has.
25 Q. How is the academic performance framework used

1 by The Board?
2 A. The Board uses the academic framework to
3 evaluate the measurable outcomes of the school to
4 determine whether or not the academic performance
5 expectations have been met. It uses those specifically in
6 high-stake decision-making processes. Examples would be
7 at interval review, periodic interval reviews when a
8 school is looking for permission to expand its operations,
9 at a time where a renewal decision is being made, it will
10 be used in determination of a revocation proceeding, and
11 specifically for the process of determining whether to
12 restore a charter school to academic -- to expected
13 performance or to revoke a charter, as in the case of
14 Founding Fathers.
15 Q. Using Exhibit 2 tell us how is the framework
16 organized?
17 A. The framework is organized around a series of
18 indicators, specifically student growth over time or
19 student progress over time and student achievement, which
20 is proficiency.
21 Q. And where in the framework are you looking?
22 A. I'm sorry. I'm looking at page three or bates
23 stamp BCS108.
24 Q. Okay. When we refer to page numbers we'll be
25 referring to the page numbers on the bottom right-hand

1 corner that are proceeded by the letter BCS, okay?
2 A. Yes.
3 Q. Okay. So, in addition to -- so, you mentioned
4 student progress over time and growth, student
5 achievement, proficiency, and what else?
6 A. And the "A" through "F" letter grade that's
7 calculated by the state for the state accountability
8 system post-secondary readiness is included for high
9 school, which includes graduation rate.
10 Q. So, within each of these four indicators does
11 the academic framework also provide a number of measures
12 that is used to evaluate schools?
13 A. It does, yes.
14 Q. And are the results of a charter school's
15 performance on the indicators and the measures within the
16 four indicators incorporated into a graphic that
17 demonstrates the charter school's performance in each of
18 these measures?
19 A. It is, yes.
20 Q. And what is the graphic called?
21 A. It's the school's academic dashboard.
22 Q. And would you, please, refer to Board Exhibit 3.
23 What is contained in Board Exhibit 3?
24 A. Exhibit 3 is the academic dashboard for
25 Jefferson Academy of Advanced Learning for the physical

1 year of 2012 and physical year 2013.
2 Q. And does Jefferson Academy's dashboard in
3 Exhibit 3 identify the four indicators that you testified
4 are used to evaluate the academic performance of a school
5 that serves grade levels that include high school?
6 A. Yes.
7 Q. Okay. And are those four indicators indicated
8 on the dashboard?
9 A. They are. They're shortened to fit into the
10 table, but No. 1, growth is that growth or student
11 progress over time; No. 2, proficiency is the proficiency,
12 the proficiency levels; No. 3, state accountability is the
13 use of the state "A" through "F" letter grade system; and
14 No. 4, graduation refers to the expectations for high
15 school.
16 Q. Okay. While we'll go into each of the
17 indicators and the measures in detail shortly, briefly can
18 you tell me what are the measures within each of those
19 three indicators?
20 A. Sure. Under the first indicator growth we look
21 at two measures, both evolving around student growth over
22 time, so they improve learning or growth over time. One
23 is the overall growth and the second one is the growth of
24 the lowest performing students at the school.
25 In proficiency we look at several categories.

1 We look at percent of students passing over time. We look
2 at a composite school comparison of the school compared to
3 state performance. And then we look at three subgroups.
4 We look at the ELL subgroup, which is English Language
5 Learners; look at the subgroup FRL, which is the free and
6 reduced lunch eligible students; and we look at subgroup
7 of special education or SPED, which is students with
8 learning disabilities. And the state accountability we
9 look at, at this point in time just the letter grade as it
10 was assigned by the state. And in graduation we're
11 looking at the graduation rate of the students at the
12 school.
13 Q. Now, in some of the measures there's indication
14 of "NR" what does that signify?
15 A. An "NR" would signify one of two things. It
16 could signify that there were no students within that
17 category or there was no data within that category. It
18 would also signify that the school may have had students
19 in that category, but there were fewer than 11 students,
20 and those -- that data then is not included as a means to
21 protect personal identifying information of those
22 students.
23 Q. And what is the source of the data that is
24 contained in the measure column of the dashboard?
25 A. The data for the measures comes from the school

1 specific and statewide AIMS testing or the state
2 assessment data in reading and in math, for the most part
3 with the exception of the graduation rate, which would
4 come from the graduation rates across the state and at
5 that school.
6 Q. And why is just math and reading?
7 A. Math and reading are the two content areas that
8 are assessed statewide at all grade levels.
9 Q. When do schools first have access to their AIMS,
10 the state standardized test, student level test data?
11 A. The schools generally will get their data
12 returned to them in early June.
13 Q. And how do schools access their academic
14 performance rating, their dashboard?
15 A. The dashboards are available through our
16 website.
17 Q. And can The Board -- and can the public also
18 access the dashboard as well?
19 A. Yes, they can.
20 Q. Does the academic framework and dashboard weight
21 and rate each of the measures within the dashboard?
22 A. It does, yes.
23 Q. For the rating of the individual measures what
24 rating categories does The Board use?
25 A. The Board uses an exceeds, a meets, does not

1 meet, and it falls far below.
2 Q. Would you please refer to page 110 of Exhibit 2.
3 Are the ratings that you just described and the meaning of
4 each of those ratings described in the bullets at the top
5 of this page?
6 A. Yes, they are.
7 Q. Are the ratings also color coded on the
8 dashboard?
9 A. Yes.
10 Q. And how are the ratings color coded on the
11 dashboard?
12 A. If a school had an exceed standards rating it
13 would be in a dark green. A meet standards would be in a
14 light green. A does not meet standards is color coded
15 pink, and a falls far below standards is red.
16 Q. Does Exhibit 3 accurately reflect Jefferson
17 Academy's ratings and colors in the individual performance
18 measures of the dashboard?
19 A. Yes, it does.
20 Q. Does the dashboard -- does The Board's academic
21 framework and dashboard also provide an overall rating of
22 the school's academic performance?
23 A. It does, yes.
24 Q. For the overall rating what categories does the
25 Charter Board use?

1 A. The overall ratings are the same or consistent
2 with the measures. There can be an exceeds standards,
3 meets standards, does not meet standards, or a falls far
4 below standards.
5 Q. Okay. And would you, please, refer to page 121
6 of Exhibit 2. Here in the dashboard does it describe the
7 overall ratings that you just referred to, in the middle
8 of the page in the table there?
9 A. The framework, yeah. Not in the dashboard, but
10 in the framework this does describe the overall ratings,
11 yes.
12 Q. And is a school's overall rating also color
13 coded on the dashboard that is Exhibit 3?
14 A. It is, yes.
15 Q. And how is the overall rating color coded?
16 A. Consistent with the measure color coding, an
17 exceeds standard is dark green, a meets the standard is
18 light green, a does not meet the standard is pink, and a
19 falls far below standard would be red.
20 Q. And does Exhibit 3 accurately reflect Jefferson
21 Academy's overall performance on The Board's dashboard?
22 A. Yes, it does.
23 Q. What is being measured in the growth indicator
24 on the dashboard?
25 A. The growth indicator measures how much a student

1 learned or improved. Over the course of a year the
2 school, every student receives a growth percentile for its
3 efforts in its improvement. The school's growth
4 percentile then is calculated using the median growth
5 percentile of the students at its school and a growth
6 percentile measured a student's performance in comparison
7 to its academic peers or students who scored at the same
8 level of the test in the prior year. So, it takes a look
9 at how much a student grew compared to its academic peers.
10 Q. And when you say, "on the test," what test are
11 you referring to?
12 A. I'm sorry. That would be the AIMS test or the
13 state assessment test.
14 Q. So, do students have to be in attendance at the
15 school for a particular period of time before assessment
16 results are included in the dashboard?
17 A. Yes. The Board uses only full academic year or
18 phase students in its calculation.
19 Q. What is the significance of distinguishing
20 between full academic year and non-full academic year
21 students?
22 A. Well, a charter school is certainly responsible
23 for educating every student that comes through it doors
24 when it arrives, or he or she arrives. The Board felt
25 that for the accountability purposes credit should be

given or schools should be held accountable specifically for those students that it had an entire year to educate. So, a phase student is a student who enrolls in the first ten days of the school year and stays continuously enrolled until the first day of the assessments or the testing window.

Q. Within the growth indicator on the dashboard that is Exhibit Three there's two measures of the school's growth percentile, SGP and SGP bottom 25 percent. What are those measures?

A. The first one, 1A-SGP is the overall growth for the school and the second one, 1B-SGP bottom 25 percent is the growth percentile of the bottom percentile of students at the school. So, using their prior year performance on the AIMS test identifying the bottom 25 percent of those students and evaluating how well the school did in growing those students in comparison to their academic peers.

Q. Is the framework's inclusion and the use of students growth percentile in determining a school's academic performance unique to the Charter Board?

A. No. There are lots of states that use it in their accountability measures. Certainly, there are authorizers across the country that are using growth percentiles and it is incorporated in the Arizona "A" through "F" letter grade determination.

1 Q. What are the range of scores that a school can
2 receive in the SGP or student growth percentile measures?
3 A. A growth percentile can range between a 1 to 99,
4 with the higher the number representing the higher the
5 growth and the lower the number the lower the growth.
6 Q. And what is the SGP that would meet or exceeds
7 The Board's standards in the measure under its academic
8 performance framework?
9 A. The state median SGP is going to be 50 and so
10 The Board established a median SGP of 50 as meeting the
11 expectation.
12 Q. And why was that 50, why was that the number
13 established?
14 A. Fifty was established because if a school's
15 median SGP, or student growth percentile would be 50 that
16 would indicate that 50 percent of the students are
17 performing at least as well as or better than their
18 academic peers.
19 Q. Okay. Let's focus in on SGP, the student growth
20 percentile overall. In referring to the Jefferson
21 Academy's dashboard that's in Exhibit 3 for 2013 what does
22 Jefferson Academy's SGP of 38 in math mean?
23 A. So, the 38 is the median SGP for the school,
24 which would indicate that the students at Jefferson
25 Academy were outperformed by 62 percent of their academic

1 peers.
2 Q. In regard to the dashboard what does the
3 score -- what does -- what does the SGP of 36.5 that
4 Jefferson Academy has for reading, what does that mean?
5 A. So, the 36.5 again would be the median for the
6 school so 63 percent would be the converse of that,
7 meaning that Jefferson Academy students were outperformed
8 by 63 percent of their academic peers in reading.
9 Q. If we turn back to Exhibit 2 at page 112. At
10 the top of the page does it identify, does The Board's
11 framework identify the median SGPs that a charter school
12 must receive in order to fall within one of the four
13 categories?
14 A. Yes, it does.
15 Q. And as reflected in Jefferson Academy's
16 dashboard that's Exhibit 3, for 2013 its SGP for math and
17 reading did not meet The Board's standard nor this
18 measure; is that correct?
19 A. That is correct.
20 Q. And is that performance also reflected by the
21 color coding of pink?
22 A. It is, yes.
23 Q. And as reflected in Jefferson Academy's
24 dashboard also for 2012 it's SGP for math and reading also
25 did not meet The Board's standard; is that correct?

1 A. That is correct, yes.
2 Q. Did the SGP at Jefferson Academy decline from
3 2012 to 2013?
4 A. Yes, it did.
5 Q. Let's turn to SGP bottom 25 percent, and what is
6 the significance of SGP bottom 25 percent?
7 A. So, again, the bottom 25 percent looks at just
8 those students that were identified having been the lower
9 performers on previous AIMS assessment and comparing how
10 well those students are performing or improved compared to
11 their academic peers.
12 Q. And what does Jefferson Academy's SGP bottom
13 25 percent in math of 38.5 mean?
14 A. So, the 38.5 again is the school's median. So,
15 62 percent would be the converse of that and so the
16 school, the median student or 50 percent of the students
17 at the school were outperformed by 62 percent of their
18 academic peers, and that would be for math.
19 Q. And for reading what does the SGP bottom
20 25 percent of 42 in the dashboard mean?
21 A. So, basically using the same processes that,
22 that would be 58 percent -- got to do the math -- that the
23 school was out, the school was outperformed by 58 percent
24 of their academic peers.
25 Q. And if we refer to Exhibit 2 at the bottom of

1 the page 112 does The Board's framework identify for the
2 bottom 25 percent the median student growth percentile
3 that a charter school must receive in order to fall within
4 one of four ratings that The Board uses on its dashboard?
5 A. Yes, it does.
6 Q. As reflected in Jefferson Academy's dashboard,
7 that was Exhibit Three, for 2013 for its SGP bottom
8 25 percent for math and reading it did not meet The
9 Board's standards; is that correct?
10 A. That is correct.
11 Q. And that performance is also reflected by the
12 color coding of pink; is that correct?
13 A. That is correct.
14 Q. And as reflected in the Jefferson Academy's
15 dashboard for 2012 it's SGP for its bottom 25 percent in
16 math also did not meet The Board's standards; is that
17 correct?
18 A. That's true, yes.
19 Q. But its SGP for its bottom 25 percent in reading
20 last year did meet The Board's standard; is that correct?
21 A. It did, uh-huh.
22 Q. Based on the Jefferson Academy's student growth
23 percentiles for math and reading is Jefferson Academy
24 making adequate student growth based on those growth
25 percentiles for students overall in reading and math?

1 A. No, it's not.
2 Q. And for its bottom 25 percent performing
3 students is Jefferson Academy making adequate growth based
4 on it median growth percentiles?
5 A. No, it's not.
6 Q. Let's move to the second indicator of
7 proficiency. As reflected in the dashboard that's
8 Exhibit 3 there are five measures within the proficiency;
9 is that correct?
10 A. Yes.
11 Q. What is being measured by the indicator
12 proficiency?
13 A. Proficiency measures the percent of students
14 that are passing the state assessment, and by passing
15 another way of stating that would be by meeting the state
16 standards.
17 Q. Okay. And in terms of students performance on
18 AIMS what are the, I mean, because there's really not a
19 pass/fail there are categories, isn't there, and what are
20 those?
21 A. In AIMS you can, you can do the same that you,
22 that -- very consistent with what our dashboard is, you
23 can fall far below, you can approach, you can meet the
24 standard, or your can exceed the standard.
25 Q. And as it did with the measures within the

1 indicator of growth does The Board's academic performance
2 framework also identify proficiency rates that a charter
3 school must receive in each of these measures in order to
4 fall within one of four ratings?
5 A. Yes, it does.
6 Q. And where in the academic framework does it
7 provide that information?
8 A. For proficiency the ratings begin on page nine.
9 Q. Okay. And if you could use the --
10 A. So, sorry. BCS114 continuing on to 115 and 116.
11 Q. And if we could refer to Exhibit 3, what is
12 being measured in the percent passing measure?
13 A. So, the percent passing measure is the overall
14 percent passing rate of the school compared to the overall
15 percent passing rate of the state for the same grade level
16 served.
17 Q. Okay. So what do the numbers for the 2A percent
18 passing in math, what does the number in Jefferson
19 Academy's dashboard for 2013 the number 17/60. 8; what do
20 those numbers mean?
21 A. The first number 17 is the school's percent
22 passing and the 60.8 is the state's percent passing.
23 Q. And then for the percent passing for reading
24 what does the 38/77.3 mean?
25 A. In the first number the 38 is the school's

1 proficiency or percent passing rate and the 77.3
2 represents the state's proficiency rate for the same
3 grades.
4 Q. And what is the proficiency level that would
5 meet The Board's standards in this measure under The
6 Board's academic performance framework?
7 A. To meet the standards the school must be
8 performing at least as well as the state's proficiency
9 rate.
10 Q. And as reflected in Jefferson Academy's
11 dashboard for 2013 the percent of students passing the
12 statewide assessment at Jefferson Academy in both reading
13 and math did not meet The Board's standard under The
14 Board's academic framework; is that correct?
15 A. That is correct.
16 Q. What is being measured in the 2B composite
17 school comparison measure?
18 A. The composite school measure is a measure that
19 allows The Board to evaluate the performance of the school
20 with regard to the individual characteristics of the
21 school and those same characteristics across the state,
22 and by referencing characteristics I'm talking about the
23 subgroups of ELL, or English Language Learners, free and
24 reduced lunch eligible students, and the special education
25 student.

1 Q. Okay. And why are we -- why are we referring to
2 it as a composite school comparison?
3 A. The composite school comparison is because you
4 can't find generally across the state similar, schools
5 that you could use how is this school doing compared to
6 this school and because of the varying demographic issues
7 and other things that come into play.
8 So, a composite school comparison allows us to
9 look at the specific or unique characteristics of the
10 school and compare that to students across the state that
11 would have those same characteristics.
12 Q. Okay. And what characteristics are you
13 referring to?
14 A. Again, the English Language Learners, the free
15 and reduced lunch students, and the students with learning
16 disabilities.
17 Q. Okay. And the subgroup English Language
18 Learners that refers to students that are not proficient
19 in the English language?
20 A. Yes.
21 Q. Can a school receive a positive or a negative
22 number in the composite school comparison measure?
23 A. Yeah. So, when the data is collected for the
24 school and we get the school's proficiency rate as it's
25 calculated for those students with those unique

1 characteristics compared to the state proficiency rate of
2 the students with those same characteristics, then schools
3 proficiency rate compared to the aggregate state
4 proficiency rate for those same students are compared. If
5 the school is on par with the state's proficiency rate
6 then the numbers would be zero. You would subtract one
7 from the other and you would get a zero. If the school is
8 performing better than that composite comparison the
9 school would have a positive number, and if the school is
10 not performing as well as would be expected given the
11 comparison group then it would be a negative number.
12 Q. And looking at Jefferson Academy's dashboard for
13 2013 the composite school Jefferson Academy scored a
14 negative 37.9 in math and a negative 33.8 in reading; is
15 that correct?
16 A. That's correct.
17 Q. And as indicated by the color coding of pink
18 does that mean that under The Board's academic performance
19 framework that in these measures Jefferson Academy rating
20 falls far below?
21 A. Actually the color coding of red.
22 Q. Sorry, correct.
23 A. That would indicate that they fall far below,
24 yes.
25 Q. In addition to evaluating school level

1 proficiency does The Board's framework also look at the
2 performance of various subgroups within the school?
3 A. Yes.
4 Q. Okay. And those subgroups are?
5 A. That would be the subgroups of the English
6 Language Learners, the free and reduced lunch, and the
7 special education or students with learning disabilities.
8 So, while it already looked at that composite
9 school selectively The Board also looks then at that
10 school's performance with each of those individual
11 subgroups.
12 Q. Okay. And what do you mean by free and reduced
13 lunch?
14 A. Free and reduced lunch eligible students would
15 be those students that based on their parents' income
16 would be eligible, so it would be a poverty indicator.
17 Q. Why does The Board's framework include those
18 subgroups and separate information out with regard to
19 those subgroups?
20 A. So, English Language Learners when you look at
21 them as a subgroup of students they generally bring
22 learning challenges to the classroom, because they don't
23 actually speak English very well and would then, could
24 have problems with the reading and the math and would
25 require some additional attention.

1 A free and reduced lunch eligible group would
2 generally having come from a level of poverty, may not
3 have had the advantages that another student might have
4 had with regard to the selection of a preschool or any of
5 the early childhood development that may occur in a home
6 where the education level of the parents may be higher
7 than these students.
8 And then special education students come with
9 their own set of learning challenges as well.
10 Q. In 2012 and 2013 Jefferson Academy received an
11 NR in the subgroup for English Language Learners. Why is
12 that there?
13 A. In this case there are reported English Language
14 Learners at the school, but there are less than 11
15 students and they may not have been full academic year
16 students.
17 Q. In 2013 the free and reduced lunch subgroup, the
18 numbers for the 2C subgroup free and reduced lunch, the
19 numbers are represented by, there's two numbers separated
20 by a slash. What do those numbers mean?
21 A. Very much in line with the process in the 2A
22 percent passing. The first number represents the school's
23 proficiency rate or percent of students who passed the
24 test for that particular subgroup, compared to the state's
25 proficiency rate for students in those same grade levels

1 that qualified for the same, for that same category or
2 indicator.
3 Q. And what is the proficiency level that would
4 meet The Board's standards in these proficiency subgroup
5 measures under The Board's academic performance framework?
6 A. The Board set its standard to that of the state.
7 So, in this case the expected proficiency rate or percent
8 passing would be 52.5, in line with the state's
9 proficiency.
10 Q. Okay. And that's specifically for the category
11 of free and reduced lunch math?
12 A. Yes.
13 Q. Which the other categories have their own
14 separate statewide performance?
15 A. That is correct.
16 Q. As a result of Jefferson Academy's proficiency
17 performance of its free and reduced subgroup in both math
18 and reading did Jefferson Academy rate as it does not meet
19 standard in both of those measures under The Board's
20 academic performance framework?
21 A. Yes, it did.
22 Q. And as a result of Jefferson Academy's
23 proficiency performance of its SPED or special education
24 subgroup in both reading and math did Jefferson Academy
25 also rate does not meet standard in both math and reading

1 in that subgroup?
2 A. Yes.
3 Q. You previously testified that the State
4 accountability indicator that The Board's academic
5 framework takes into consideration that achievement
6 profile that the Department of Education assigns to
7 schools; is that correct?
8 A. Yes.
9 Q. And if you would please refer to Page 117 of
10 Exhibit 2. In the box at the top of the page does The
11 Board's framework also identify the letter grades or
12 ratings that a charter school must receive in order to
13 fall within one of four ratings on the charter school
14 side?
15 A. Yes.
16 Q. What is the letter grade that would meet The
17 Board's standards in this measure of state accountability?
18 A. In order to meet the standard the school would
19 need to earn a letter grade of a "D."
20 Q. Does Jefferson Academy's -- refer back to
21 Exhibit 3. Does Jefferson Academy's "D" in 2012 or in its
22 state accountability letter put Jefferson Academy within
23 the, within what rating for The Board?
24 A. If I understand the question, the "D" in 2012 --
25 Q. Yes.

1 A. -- would put them in the falls far below
2 category.
3 Q. And does Jefferson Academy's "F" in 2013 also
4 put Jefferson Academy in the falls far below standard in
5 the measure?
6 A. Yes.
7 Q. Turning to the fourth indicator, graduation.
8 What is being measured in the graduation measure of The
9 Board's dashboard?
10 A. The graduation rate that's being measured is the
11 success of the school in taking its -- taking a student
12 and graduating them within the four years determined by
13 their entering cohorts. So, it's evaluating the success
14 of a four-year graduate.
15 Q. Why does Founding Fathers have an NR in this
16 measure?
17 A. NR in this measure would be, because again while
18 they did have students who graduated they had fewer than
19 11 students for the purposes of the cohort measurement.
20 Q. How is a charter school's overall rating
21 derived?
22 A. The overall rating is calculated based on the
23 points that are assigned in each of, for each of the
24 particular measures with then the weighting assigned for
25 those points. When the formula is completed there is an

1 overall point score then that is used in conjunction with
2 The Board's scores that it sets.
3 Q. So, in looking at Exhibit 3 for its performance
4 of 2013 Jefferson Academy's overall rating of 45.59 does
5 that put Jefferson Academy within the does not meet the
6 standard rating under The Board's -- under The Board's
7 academic performance framework?
8 A. Yes.
9 Q. So, what does that mean, "does not mean
10 standard," what does that mean under The Board's academic
11 framework?
12 A. So, a does not meet standard would mean that the
13 school did not meet The Board's academic performance
14 expectation as it was set.
15 Q. How does the school's overall rating fit in with
16 how a school under The Board's academic performance
17 framework does or does not meet The Board's academic
18 expectations?
19 A. So, in order for a school or a charter holder to
20 meet The Board's academic performance expectations all
21 schools operated by that charter holder must have for two
22 consecutive years a meets or exceeds. So, in this case a
23 does not meet in both years would mean that the school and
24 this charter holder does not meet The Board's academic
25 expectations.

1 Q. If a charter school does not meet The Board's
2 academic expectation then what happens next?
3 A. A charter holder with schools that doesn't meet
4 the performance expectations has an opportunity to
5 demonstrate that it is making sufficient progress toward
6 those expectations.
7 Q. And how does it do that?
8 A. It does that through the submission of a DSP
9 document.
10 Q. And what does DSP mean?
11 A. DSP stands for Demonstration of Sufficient
12 Progress.
13 Q. Okay. So, what is a Demonstration of Sufficient
14 Progress or a DSP document?
15 A. A Demonstration of Sufficient Progress, DSP
16 document provides the school with the opportunity to share
17 with The Board what it has done in the past to improve its
18 academic performance and it specifically gives them an
19 opportunity to talk about all of its efforts in specific
20 areas and then provide the data that demonstrates the
21 effectiveness of the implementation of those improvement
22 efforts.
23 Q. So, is the charter holder through the DSP
24 document demonstrating or evidencing that despite its not
25 meeting The Board's academic performance expectations

1 under the dashboard that it's still successful in
2 improving its students' academic performance in the
3 measures on the dashboard?
4 A. That's the intent, yes.
5 Q. Does The Board's academic performance framework
6 that's contained in Exhibit 2 detail the DSP document and
7 what must be contained in the DSP document?
8 A. It does, yes.
9 Q. And where does it do that?
10 A. That would be Exhibit D, which is on Page 144.
11 Q. Okay. Exhibit 2?
12 A. Appendix D in Exhibit 2 on Page 144.
13 Q. Okay, thank you. I don't want to get confused,
14 because we have also exhibits with letters.
15 A. Okay. I actually got the page number right.
16 Q. Okay. So, once a school is advised by the
17 Charter Board that it has to submit a DSP document how
18 long does it have to complete that document?
19 A. They have two months.
20 Q. And what happens next?
21 A. So, once the DSP is returned to The Board it's
22 evaluated using the scoring criteria established.
23 Q. And does the academic performance framework set
24 forth the criteria or the instrument that the Charter
25 Board uses in evaluating whether through the DSP document

1 the school has demonstrated making sufficient progress
2 toward the academic performance expectations of The Board?
3 A. Yes. In Appendix D on page, beginning at the
4 bottom of Page 147 and continues on. The actual
5 evaluation criteria that's used to evaluate the DSP when
6 it's submitted is provided.
7 Q. And how is the evaluation of the DSP document
8 structured?
9 A. The evaluation document is structured around --
10 if I can back up.
11 For every measure that rates as a does not meet
12 or falls far below or an NR rating the school is
13 instructed that it should address its improvement efforts
14 for each of those areas. The Board in identifying best
15 practices of high performing schools looks specifically
16 for and instructs the school to provide its evidence in
17 four different categories.
18 So, as indicated in the evaluation tool the
19 schools are instructed to address their efforts with
20 regard to curriculum, instruction, assessment, and
21 professional development, and specifically for each of the
22 measures that it addressed. They're also instructed to
23 provide data that evidences the effectiveness of the
24 implementation of each of those categories.
25 Q. And what happens after evaluation, a DSP

1 document is evaluated?
2 A. After the DSP is evaluated a letter is sent to
3 the charter representative informing them that a team will
4 come out and visit with their leadership team to look at
5 evidence as it was identified in the DSP and to collect
6 any additional evidence that the school might want to
7 provide to indicate that it is meeting those expectations.
8 So, there's a letter that's sent, a site visit
9 is scheduled, the site visit occurs, and then additionally
10 in leaving the site visit the school is informed that they
11 have 48 hours to provide any additional information that
12 the school might want to submit, and then a subsequent
13 review of the, all of the documentation is completed.
14 Q. Okay. And then there is a final evaluation
15 instrument that's completed?
16 A. Yes, that's correct.
17 Q. So, is the term Demonstration of Sufficient
18 Progress used to describe both the documentation submitted
19 to The Board and the process by which, the processes that
20 you described the site visits, the additional information,
21 the subsequent evaluation?
22 A. They're the same, yes.
23 Q. And were those processes followed with Founding
24 Fathers?
25 A. They were, yes.

1 Q. At the conclusion of the processes is then an
2 evaluation made as to whether the school did or did not
3 demonstrate it was making sufficient progress toward The
4 Board's academic performance expectations?
5 A. Yes.
6 Q. Following these processes is there a packet of
7 materials that is prepared for the Charter Board, the
8 Board of Directors to consider with regard to whether to
9 restore or revoke a failing school?
10 A. Yes.
11 Q. Okay. Would you please refer to Exhibit 1.
12 What is contained in Exhibit 1?
13 A. Exhibit 1 with all of its sub-tabs is the
14 document that we call the portfolio that is provided and
15 was provided to The Board for its consideration in
16 determining whether to restore or revoke the charter of
17 Founding Fathers.
18 Q. And when did the members of the Charter Board
19 meet to consider whether to restore or revoke Founding
20 Father's charter?
21 A. That meeting was held on December 9th of 2013.
22 Q. And would you, you know, briefly take us through
23 what other various contents of the portfolio that's
24 contained in Exhibit 1.
25 A. Yes. So, at Tab A is the staff report that is

1 provided as an introduction and overview to their
2 consideration. On page four of this report you'll see
3 there is a section titled, "Demonstration of Sufficient
4 Progress," in addition to detailing all of the areas that
5 were addressed or the categories that were addressed in
6 the second paragraph on this page is the actual evaluation
7 that I previously referenced as far as a determination
8 that's made by staff.
9 On Tab B we have a couple of sets of
10 communication. The first communication is between Martha
11 Morgan, who was the Director of Charter Accountability at
12 the time and her request to Robert Gray, who was the
13 Director of Operations for School Improvement at the
14 Department of Education and heads up the appeal process
15 for the "F" letter grade determination, requesting
16 information regarding which schools were identified as an
17 "F."
18 On page 12 of this same tab and it's the letter
19 from Robert Gray to Sandy Stewart, the charter
20 representative for Founding Fathers, indicating that after
21 the appeal process the school was identified as an "F."
22 Q. And just for clarification, Martha Morgan was an
23 employee of the Charter Board; is that correct?
24 A. That's correct.
25 At Tab C we have the letter from Martha Morgan

1 to Sandy Stewart that identified that because the school
2 has been identified as an "F" and The Board needs to make
3 a determination whether to restore or revoke, that a
4 Demonstration of Sufficient Progress needs to be submitted
5 and it provides the instructions for how to complete that
6 process and the information that needs to be addressed.
7 At Tab D we have further communication between
8 Martha Morgan and Sandy Stewart. The first letter is
9 identification that a site -- that the DSP has been
10 evaluated and a site visit will occur. The second letter
11 is more specific to the DSP process and the site visit,
12 again confirming the date and time of the visit, but also
13 identifying the list of items that the school would be
14 expected to provide at the time of the site visit based on
15 their inclusion in the DSP document that was submitted,
16 and the opportunity to provide any additional evidence
17 that would demonstrate that the school is making
18 sufficient progress.
19 Tab E is the Demonstration of Sufficient
20 Progress document that was created by Founding Fathers and
21 submitted and this is the material that was reviewed at
22 the initial evaluation.
23 Tab F is the evaluation document that actually
24 includes both the results after the initial evaluation and
25 then the final results of the evaluation of the DSP

1 process that included not only the review of the initial
2 DSP, but the review, the subsequent review once the site
3 visit had occurred and the materials, if any, that had
4 been submitted within that 48 hour timeframe.
5 Tab G is a list of the evidence that was
6 requested. So, the specific documents that were requested
7 to be seen at the time of the visit by Board staff and
8 then, additionally, when provided an opportunity to
9 present any additional information the materials that were
10 provided by the school either during the site visit or
11 subsequent to the visit.
12 Tab H is a document that's referred to as a
13 Performance Management Plan that the school was required
14 to submit in a previous evaluation of its academic
15 performance under the different performance process of The
16 Board. And Tab I and J were those additional materials
17 regarding their financial performance.
18 Q. Was Founding Fathers provided an opportunity to
19 appear before and to address The Board at its
20 December 9th, 2013 meeting?
21 A. Yes.
22 Q. And did a representative of Founding Fathers
23 appear and address The Board?
24 A. Yes, he did.
25 Q. And was the decision of The Board to revoke

1 Founding Fathers' charter?
2 A. It was, yes.
3 Q. And on what basis?
4 A. The basis that the school was designated as an
5 "F" school. Additionally, the school did not meet The
6 Board's academic performance expectations as outlined in
7 the framework, nor did it demonstrate sufficient progress
8 toward The Board's academic expectations upon the
9 completion of the Demonstration of Sufficient Progress
10 process.
11 MS. ANDERSON: I have no further questions,
12 Your Honor.
13 ADMINISTRATIVE LAW JUDGE: Cross?
14 MR. CONDOS: Can we take a break?
15 ADMINISTRATIVE LAW JUDGE: Sure. We will
16 take a 10-15 minute break and we'll go off the record at
17 this time.
18 (Recess taken 9:41 a.m. to 10:08 a.m.)
19 ADMINISTRATIVE LAW JUDGE: Okay. We are
20 back on the record and we are ready for Cross.
21 MR. CONDOS: Thank you, Your Honor.
22
23 CROSS-EXAMINATION
24
25 BY MR. CONDOS:

1 Q. Good morning, Ms. Rowe, how are you today?
2 A. Okay, thanks.
3 Q. Okay. Again, how long has it been since you've
4 been on the staff here?
5 A. It's almost 13 years, 13 years in June.
6 Q. And how long have you been the Executive
7 Director now?
8 A. Since 2007.
9 Q. So, almost a full seven years?
10 A. Yeah.
11 Q. Okay. So, during that time period you had
12 probably many opportunities to take a look at the charter
13 school statutes and how they apply to the charter schools,
14 I assume, right?
15 A. Yes.
16 Q. Okay. Charter schools were established in
17 Arizona in 1994; is that correct?
18 A. Yeah.
19 Q. Okay. And the enabling statute specifically
20 defines the purpose and the scope for charter schools?
21 A. It does, yes.
22 Q. Okay. And if you look at that statute it really
23 sets out three purposes for charter schools. One is to
24 establish and provide a learning environment that will
25 improve the pupil achievement, right?

A. Correct.

Q. Okay. The second one is that it will provide additional choices for parents and for pupils, that's the choice factor?

A. Okay, yes.

Q. Okay. And the final one is that they are public schools that serve as alternatives to the traditional public schools?

A. They are different from the alternative schools -- or from the traditional schools.

Q. And, in fact, the charter schools that we have in the state are about as different as anything that's out there; would you agree, as far as any type of model or anything like that?

A. I'm not sure I understand the question. I couldn't agree with that.

Q. We have a variety of forms of charter school that provide educational programs?

A. Yes, that's true.

Q. Okay. We have some that are back to basics type of charter school with the way they operate?

A. Yes.

Q. We have some that are college prep that, you know, their focus is on getting the higher students so they can gear them so they get into one or two or three of

1 their favorite colleges?
2 A. There are -- I'm not sure that their focus is
3 the higher students. They tend to attract those students,
4 yes.
5 Q. Right. And we have some charter schools that
6 use the arts as part of their methodology in educating
7 students?
8 A. Yes, we do.
9 Q. And we have a number of schools that have, their
10 school is located in disadvantaged areas to work with and
11 try to elevate those children?
12 A. That is correct.
13 Q. Okay. And that's just the tip of the iceberg,
14 there's a whole lot of -- how many schools do we have here
15 now?
16 A. The Board sponsors about 512 charter schools
17 this year.
18 Q. Okay. Now, in the last three years or so would
19 it be accurate to say that about 50 charter schools have
20 closed their doors, either voluntarily following a letter
21 of intent to revoke or an actual revocation?
22 A. Fifty in the last three years, is that what you
23 said?
24 Q. Mm-hm.
25 A. I can't say that that number is right. There

1 have been a number of schools that have closed voluntarily
2 or have -- and have chosen to surrender their charters,
3 this is true.
4 Q. And if you look at those schools would you say a
5 high percentage or there's considerably over 50 percent
6 were students that tailored or looked to the students, you
7 know, that were low poverty students, free and reduced
8 lunch, minority, black, Hispanic?
9 A. I couldn't say that off the top of my head. If
10 you have a list I'd be happy to take a look at it.
11 Q. Okay. All right. Now, if the statute provides
12 that if a school doesn't follow the provisions of the
13 article that that punishment under 15-1A and 1B would be
14 that they no longer can receive state funds. Let me not
15 put you at a disadvantage.
16 Your Honor, if I could approach the witness I
17 could give her a copy of the statute?
18 ADMINISTRATIVE LAW JUDGE: Yes.
19 A. Thank you.
20 Q. Now, subparagraph B it says that they have to
21 fulfill the provisions of the contract and the statute in
22 order to be able to receive funds.
23 MS. ANDERSON: Objection; misstates the
24 contents of the statute.
25 Q. Your Honor -- can you tell me what Section B

1 says?
2 A. So, for clarification, you didn't give me the
3 charter school statute. I got a page that's just 15-181.
4 Q. The primary purpose of the statute, that's
5 the --
6 A. And paragraph B reads: "Charter schools shall
7 comply with all provisions of this article in order to
8 receive state funds as prescribed in Section 15-185."
9 Q. Okay. Now, the intent of the legislature and
10 the intent of the founders or founding people who wanted
11 charter schools in the state realized they were going to
12 be alternatives to traditional public schools, they ought
13 to have some leeway as well from the educational
14 requirements that burden the public school districts.
15 MS. ANDERSON: Objection; calls for
16 speculation regarding legislature's intent.
17 MR. CONDOS: I haven't finished the
18 question yet, but --
19 MS. ANDERSON: I'm sorry, I thought you
20 finished the question.
21 BY MR. CONDOS:
22 Q. What does -- charter schools are entitled to be
23 exempt from educational laws; is that correct?
24 A. There are some exclusions to laws that charter
25 schools have to follow, that is correct. Exclusions from

1 the public school laws that a charter school would have to
2 follow.
3 Q. Okay. And is it a correct statement that
4 15-183-E5 specifically says that charter school are exempt
5 from all statutes and rules related to schools, governing
6 boards, and school districts?
7 A. While I look at the statutes frequently I don't
8 have them all memorized and that sounded like an
9 appropriate statement. I can't tell whether you read it
10 specifically word for word or not.
11 Q. Okay. I think we'll have it word for word here
12 in a second. I think this young lady is looking it up. I
13 was wondering what was going on here, I said, the ghosts
14 have taken over the screens.
15 The way the statute exactly reads is that:
16 "Ensure that except as provided in this article and in its
17 charter, it is exempt from all statutes and rules relating
18 to schools, governing boards, and school districts."
19 A. Correct.
20 Q. Okay. Now, with a letter of intent to revoke
21 what are we revoking?
22 A. With a letter of intent or a notice of intent?
23 Q. When The Board issued a Notice of Intent to
24 Revoke what is The Board trying to revoke?
25 A. With the Notice of Intent to Revoke The Board is

1 revoking the charter, the ability of the charter holder to
2 operate charter schools pursuant to the contract.
3 Q. And the charter really is the contract, a
4 charter contract is what gives the school the right to
5 operate?
6 A. That is correct.
7 Q. Okay. Now, the statute, if I'm not wrong, or
8 any of the statutes did not define what an appropriate
9 learning environment is?
10 MS. ANDERSON: Objection; calls for a legal
11 conclusion.
12 Q. Does it?
13 ADMINISTRATIVE LAW JUDGE: Do you know if
14 the statutes define appropriate learning environment?
15 A. No.
16 Q. All right. But The Board is responsible to deal
17 with its charter schools and is responsible to make sure
18 that the charter schools provide a learning environment?
19 A. That's correct.
20 Q. Okay. If you don't know that there's any
21 definition for a learning environment how, where does The
22 Board find its basis for learning environment?
23 A. The board has the statutory requirement to adopt
24 an academic or a performance framework for the evaluation
25 of its charter schools and specifically a process for

1 evaluating the academic expectations.
2 Q. Okay. Now, isn't it true that a learning
3 environment is more than just tests?
4 A. Yes.
5 Q. Okay. And isn't it true that a learning
6 environment would be something where a school, the safety
7 of a student would be appropriate?
8 A. A charter is required to provide a safe learning
9 environment, that's correct.
10 Q. Okay. And isn't it true that the equipment and
11 materials that a school is supposed to use would also be
12 part of a positive learning environment?
13 MS. ANDERSON: Objection, Your Honor,
14 relevance. The statute states a learning environment that
15 will improve pupil achievement. It doesn't end at the
16 word learning environment. And this line of questioning I
17 would object to on the basis of relevance.
18 MR. CONDOS: Since learning achievement is
19 what you've got here to allow the child to learn and it's
20 more than tests. We've already talked about a safe
21 environment. You can't have a learning environment if you
22 don't have adequate supplies, teaching materials.
23 MS. ANDERSON: But, Your Honor, that wasn't
24 the basis for the revocation of the school that it didn't
25 have supplies.

1 MR. CONDOS: Well, that's not a question of
2 supplies. It's a question of the testing establishing
3 that it's not an adequate learning environment. And I'm
4 saying there's many, many other factors involved in an
5 appropriate learning environment.
6 MS. ANDERSON: I don't think that was the
7 witness' testimony.
8 ADMINISTRATIVE LAW JUDGE: I'll grant you
9 some leeway and see where this goes.
10 BY MR. CONDOS:
11 Q. Okay. Having the appropriate materials at a
12 school is essential to having an adequate learning
13 environment?
14 A. So, again, we're looking at a learning
15 environment that improves pupil achievement.
16 Q. That improves pupil achievement.
17 A. And pupil achievement has to be measurable. So,
18 there a number of things that might go into that learning
19 environment that produces or demonstrates effectiveness of
20 the school. It could be and is, as I think we looked at
21 in our evaluation and I previously testified to, it's a
22 matter of the curriculum, it's a matter of instruction,
23 it's a matter of the assessment materials that they have
24 and what they do with that assessment information. It's a
25 matter of the professional development that they provide

1 and how that professional development is then monitored
2 for effectiveness in the classroom. And it goes to the
3 overall learning environment that demonstrates that pupils
4 are, in fact, improving.
5 Q. Okay. And would it also be a part of a learning
6 environment to have a school that children want to attend,
7 a learning environment to a place where children want to
8 come to school, students want to come to school?
9 A. Certainly a child's desire to be there makes a
10 teacher's life easier.
11 Q. It's statutory so they really don't have a
12 choice until they're 16, but it's better if they have a
13 place where they want to go to school. In other words, a
14 school with good attendance would be a school that is
15 providing some of the extras over and above the simple
16 assessments of grade levels, grades?
17 A. No, not necessarily. A school that has good
18 attendance in and of itself is not a demonstration that
19 adequate instruction is being provided at the school.
20 Q. But it is a factor that goes into it. If you do
21 have people attending they can't -- if they don't go to
22 school they can't learn anything, right?
23 A. If -- yeah, if they're not there they wouldn't
24 learn, that's true.
25 Q. So, if you have a student who wasn't coming to

1 school on a regular basis and this school provides
2 whatever resources or whatever contact and he comes to
3 school on a regular basis that is a measurable event, in
4 other words; would you agree to that?
5 A. I would agree that there is potential for
6 learning if the kid shows up.
7 Q. But that is another measurable event, right?
8 A. Not in and of itself, no, it's not.
9 Q. If you had a kid last year that only went to
10 school 30 percent of the time and this year he's coming 90
11 percent of the time can't you measure that he's coming
12 60 percent more now than he was last year?
13 A. Sure, you can measure the improvement in his
14 attendance, but that may not be an indicator of his
15 success in the classroom depending upon the delivery of
16 the instruction when he's there.
17 Q. But the success of the student increases when
18 the child is there and he wasn't there before?
19 A. Are you citing research?
20 Q. No. I'm just saying -- you've been around
21 charter schools for a long time. If you've got a child
22 who wasn't going to school much and is now going to
23 school, you know, his education is going to increase and
24 that's a measurable event just by being there?
25 A. Not if the instruction isn't appropriate while

he's there. No, I would have to disagree with you on that.

Q. Okay. How about a child that is doing its homework before -- wasn't doing his homework before he went to that particular school and now he's doing homework, wouldn't that be another measurable event that you could see that it's assisting and it is a good learning environment?

A. Assuming the homework is appropriate, yes.

Q. Okay. Is there anything that you found at Founding Fathers that would illustrate that the homework that they were providing to children was inappropriate?

A. I can't speak to that. I believe we have a witness who will testify to the specific findings that we had.

Q. You went out there yourself, didn't you?

A. Not for this purpose, no.

Q. You went out in March of last year of 2013, didn't you?

A. I did, yes.

Q. And you went through the classes, I believe, at that time?

A. I walked through classrooms, yes.

Q. Did you ask anybody how the homework was doing or anything about homework?

1 A. I don't recall having a conversation specific to
2 homework.
3 Q. Okay. Did you ask anybody about attendance?
4 A. I don't believe that we discussed attendance.
5 Q. Okay. Did you ask anybody about any of the
6 other factors that make a child or assist a child in
7 learning?
8 A. We focused specifically at that point in time on
9 the components that The Board was focused on specifically
10 around curriculum, instruction, assessment, and
11 professional development.
12 Q. Okay. So, this board is focused and believes
13 that the only way that a child or a school is achieving is
14 based on their scores?
15 A. The Board believes that the school's performance
16 on -- the students who attend the schools their
17 performance on AIMS assessment is and its use of that data
18 in its measures is a means to identify and meaning to
19 identify whether or not The Board is -- the school, excuse
20 me, is meeting The Board's expectation.
21 Again, as I previously testified to, a school
22 that doesn't meet The Board's expectations has an
23 opportunity to demonstrate sufficient progress toward
24 those expectations.
25 Q. I appreciate that, but basically The Board is

1 looking at scores for success as they look at these
2 schools?
3 A. The Board is looking for evidence that the
4 efforts of the school are producing improved academic
5 results for the students.
6 Q. Okay. And that evidence is primarily limited to
7 the AIMS test and those scores?
8 A. In the framework --
9 Q. Simple question, yes or no?
10 A. Then I'm going to say no.
11 Q. Okay. What other factors then would you say The
12 Board is specifically looking at when they're assessing
13 these schools to see if they are progressing?
14 A. Through the Demonstration of Sufficient Progress
15 the school has an opportunity to provide a variety of
16 means of demonstrating that their school is making
17 progress with regard to the students' academic
18 performance. There's no restriction on the type of data
19 that can be used. There is a requirement that they can
20 produce the data and analyze that data that demonstrates
21 results.
22 Q. And who, when schools produce that who is the
23 one that screens that? Who is the one that decides
24 whether or not this is adequate information or evidence to
25 take to The Board? Does The Board get everything the

1 school provides?
2 A. No.
3 Q. Okay. So, The Board is shielded from getting
4 all the information that the school is wanting to provide?
5 MS. ANDERSON: Objection; misstates
6 testimony, it's argumentative.
7 ADMINISTRATIVE LAW JUDGE: Can you rephrase
8 the question?
9 Q. Sure. So, who decides what The Board sees and
10 what The Board does not see?
11 A. Through our processes The Board has established
12 that and we have developed the portfolio that they get.
13 It did not --
14 Q. I'm sorry, go ahead.
15 A. It does not include the materials that were
16 collected, because that's the purpose of staff. The Board
17 relies on the experts that it hires to evaluate the
18 materials, to summarize that information, and provide them
19 with a recommendation.
20 Q. Okay. So, it's basically subjective on The
21 Board as to what they should provide to the -- on the
22 staff as to what they should provide to The Board or not
23 provide to The Board?
24 A. I operate under the direction of The Board. If
25 it wanted the additional background materials it would

1 certainly ask for them and I would provide them.
2 Q. Okay. But how would they know there was
3 additional background equipment -- I mean, documents if
4 you didn't tell them there was additional information?
5 A. So, The Board adopted the framework and the
6 guidance document, which includes the demonstration and
7 those processes. So, they're very aware of the fact and
8 even included in its portfolio is the letter that says,
9 hey, while the team is out there they're going to look at
10 these specific things and that you also have the
11 opportunity to provide additional information.
12 So, The Board is certainly aware that there are
13 materials that are collected and reviewed that they don't
14 see.
15 Q. But you're the final decider, you as Executive
16 Director, as to what The Board gets to see and submitted
17 in this portfolio?
18 A. Following The Board's direction, yes. I ensure
19 that the materials that should be included are included in
20 the portfolio.
21 Q. You say, "following The Board's direction," did
22 anyone on The Board or was there ever any motion that says
23 Executive Director we only want to see profile, we want to
24 see the test scores, we want to see this and we don't want
25 to see anything else? I mean, has there ever been a

1 directive, specific directive given to you as to what they
2 want to see?
3 A. I can't speak to this specific situation, but I
4 can speak to you about the processes that we engage in
5 with The Board to determine for any decision that they're
6 going to make what information they're going to receive.
7 Q. But has -- have you ever had a specific board
8 member ask for additional information?
9 A. I don't believe so, no.
10 Q. Okay. And --
11 A. Well, that's a very general question. Ever or
12 for this case?
13 Q. Well, first of all, for this case.
14 A. No.
15 Q. Did The Board ever inquire as to what was
16 submitted that the staff felt was deficient?
17 A. In any proceeding in the last 13 years in my
18 experience?
19 Q. In this proceeding, if I could, in this
20 proceeding.
21 A. Oh, I thought we already said no, I'm sorry.
22 Q. Okay. And so are you the one who prepares the
23 report, the portfolio?
24 A. I am not, no.
25 Q. Who prepares the portfolio?

1 A. Whoever the lead is on the, for that assigned
2 school.
3 Q. Okay. Who prepared the portfolio, who was the
4 lead in this particular matter with respect to Founding
5 Fathers?
6 A. For Founding Fathers I believe the lead was
7 Steve Sarmento -- no, that is not true. Steve Sarmento
8 was a member of the team on the site visit -- wow. I've
9 recently gone through a transition of two staff members
10 who were also part of the team. I'm trying to remember
11 who left when, but they were both here then. Founding
12 Fathers was Martha or Lisa. I can't tell you which right
13 off the top of my head right now.
14 Q. And did they prepare all of the portfolio that
15 went to The Board?
16 A. The portfolio is, as you've seen, is a series of
17 documents that are collected and then put together. Who
18 actually put the materials into the portfolio I can't
19 speak to. The staff report was developed by the team
20 lead, it was reviewed with me, and included as part of the
21 portfolio.
22 Q. Okay. So, you think it may have been Martha
23 Morgan who may have put this together?
24 A. Okay. I need to think about this for -- just
25 give me one second. Yes, I'm going to say Martha was the

1 lead on this one.
2 Q. Okay. And did you review it before it was sent
3 to The Board?
4 A. The entire portfolio?
5 Q. Yes.
6 A. I may have ensured that the materials were
7 there, but I, I know I reviewed the staff report. I can't
8 say that I actually opened the portfolio prior to it being
9 posted.
10 Q. Okay. And how was this material given to The
11 Board?
12 A. The portfolio material?
13 Q. Any -- yeah. Let's -- specifically this
14 material for Founding Fathers how was it given to The
15 Board?
16 A. The materials are linked to The Board agenda.
17 Q. Okay. And do they get it separately themselves
18 or do they have to get into The Board agenda and click and
19 review?
20 A. They actually have to get into the agenda and
21 click and review.
22 Q. Okay. Is there any documentation that shows
23 that board members clicked and reviewed the information?
24 A. No, we don't track that.
25 Q. So, as we sit here today we don't know if all

1 The Board members actually looked at this portfolio before
2 making a decision?
3 A. We don't know that they didn't either.
4 Q. But we don't know that they did?
5 A. I believe that if you look at The Board's motion
6 it include information about the materials presented,
7 the -- well, I don't want to speak out of turn.
8 Generally, and in The Board's motion they do
9 specifically address that with the materials presented the
10 discussion as it has occurred they make their decision
11 based on the totality of the package.
12 Q. How many members are there on The Board?
13 A. There are eleven.
14 Q. And one person makes the motion in accordance
15 with choices that you have provided to them; is that
16 right.
17 A. That's correct.
18 Q. So, we know that person would have read the
19 stuff, but other than that we don't know for sure whether
20 any of the other board members read the information or
21 just followed along with what was discussed?
22 A. Well --
23 Q. Do we?
24 A. I'm not sure that's true, because if I, as a --
25 Q. Well, how would you know then?

A. Because if I'm going to vote to say that I approve, I vote in the same direction for a motion that was made that says based on these things.

Q. But you're not on The Board?

A. No. But I'm saying if I were a board member.

Q. Well, that's making supposition of what board members may be thinking.

A. Well, aren't you asking me to do that by asking me whether or not they read it or not?

Q. No. I'm asking you, you have no personal knowledge as to whether or not all The Board members read this?

A. No.

Q. Okay. And, generally, The Board usually follows your recommendations?

A. A recommendation is provided along with all options and I'm happy when they follow my recommendation.

Q. Generally they do, don't they?

A. I'd say, generally, yes.

Q. Okay. On any revocations that you have recommended in the past have they ever decided not to revoke even when, you know, while you had suggested that they be revoked?

MS. ANDERSON: Objection; relevance.

MR. CONDOS: Establishes strength of the

1 Executive Director who handles the paperwork that's going
2 to The Board.
3 ADMINISTRATIVE LAW JUDGE: And how is that
4 relevant?
5 MR. CONDOS: And whether or not this
6 board -- it also goes to arbitrary capricious and whether
7 or not this board actually reviews this or pretty much
8 follows the Executive Director's directives.
9 ADMINISTRATIVE LAW JUDGE: You can answer
10 the question if you know.
11 THE WITNESS: I have prepared a lot of
12 agendas and materials for The Board in my seven years as
13 Executive Director, I can't speak to summarily to what
14 they've done.
15 BY MR. CONDOS:
16 Q. But revocations are very important. I would
17 think when you're closing a school that should stick in
18 your mind a little bit, wouldn't you say?
19 A. Everything that the school -- that The Board
20 does is very important as it deals with students' lives.
21 Q. All right. So, on revocations has The Board
22 ever not followed your advice?
23 A. Mr. Condos, I can't say that they have or they
24 haven't. If you have something that shows that they have
25 always or haven't I'd be happy to look at it.

1 Q. Can you think of any time that specifically that
2 they may have bucked your system? I would think that you
3 would remember if they didn't agree with you on a
4 revocation.
5 MS. ANDERSON: Objection; asked and
6 answered, argumentative.
7 ADMINISTRATIVE LAW JUDGE: She's answered
8 the question.
9 Q. Okay. Now, in this case with Founding Fathers
10 they would haven't been in front of The Board if The Board
11 hadn't gotten -- if Founding Fathers hadn't got that "F";
12 is that correct?
13 A. That's true.
14 Q. All right. And the test -- and the grades are
15 based on the AIMS tests, right?
16 A. Letter grades are based in part on the AIMS
17 test, yes.
18 Q. Okay. And when -- and, in fact, most of your
19 analysis -- and I forgot the name of it -- dashboard is
20 based on the AIMS test?
21 A. That's correct.
22 Q. Okay. Now, if there is a problem in the way the
23 AIMS test is set up and a problem with the scores that
24 would cause an incorrect rating on the AIMS test for a
25 school, right?

1 A. Every letter -- every grade is appealable. So,
2 if a school had a problem they would have an opportunity
3 to appeal that to the Department of Education.
4 Q. Right, but the Department of Education doesn't
5 specifically go back and look at the specific grades or
6 how it was established, do they?
7 MS. ANDERSON: Objection; calls for
8 speculation.
9 MR. CONDOS: If she knows.
10 ADMINISTRATIVE LAW JUDGE: If you know.
11 THE WITNESS: Can you restate your question
12 for me, please?
13 BY MR. CONDOS:
14 Q. Sure. The Department of Education looks at the
15 numbers and the test, they don't go back and review the
16 numbers in the AIMS test, do they?
17 A. In a determination of the letter grade?
18 Q. No, in the determination of an appeal?
19 A. I can't speak to the appeal process.
20 Q. So, you don't know how the appeal process goes
21 with the Department of Education?
22 A. I know generally, but I can't speak specifically
23 what the committee considers.
24 Q. Okay. Now, in the AIMS test the only thing
25 we're putting in primarily is the raw scores of the

1 various schools; is that right?
2 A. The only thing primarily the raw scores -- for
3 what purpose and in consideration of what?
4 Q. In consideration of the scores that the various
5 schools are given, the scores from the AIMS test.
6 A. Scores on what? I'm sorry.
7 Q. The AIMS test, reading and mathematics.
8 A. Ask me your question again.
9 Q. Students take the AIMS test what, you know, what
10 specific grades and when are these AIMS tests given?
11 A. What specific grades, meaning what grade levels?
12 Q. Yes.
13 A. So, the AIMS test is given in grades three
14 through eight, and tenth grade for high school for reading
15 and math.
16 Q. Okay. The scores then are given to the state;
17 is that right? I mean, the state is the one that
18 completes everything?
19 A. That's correct.
20 Q. Okay. And they have created a formula for the
21 AIMS test in establishing the scores they're going to give
22 the schools or the deviation? I mean, does the state have
23 a formula for coming up with these numbers that are on the
24 AIMS test?
25 A. Does the state have a formula for the numbers

1 that are on the AIMS test? What numbers?
2 Q. The AIMS score, the AIMS scores. In determining
3 where they rank whether it's above the median, below the
4 median, and the median.
5 A. So, the scale scores are set by the state to
6 determine whether a student receives -- for its purposes
7 of falls far below, approaches, meets, or exceeds; is that
8 what you're asking?
9 Q. What I'm asking is that how do we -- how does
10 the state and the AIMS test determine, number one, what
11 the median is that these schools are checked against?
12 A. The median what?
13 Q. The median of the reading and the median of the
14 math.
15 ADMINISTRATIVE LAW JUDGE: How do you
16 analyze data you receive as a result of the AIMS test?
17 THE WITNESS: So, I'm sorry. I thought you
18 were talking about the state's processes.
19 ADMINISTRATIVE LAW JUDGE: Yes.
20 THE WITNESS: And I -- our -- the state has
21 a process for calculating letter grades. We have a
22 process for using the AIMS data to calculate each of the
23 measures on our dashboard.
24 ADMINISTRATIVE LAW JUDGE: If I understand
25 the question correctly, so, looking at the dashboard like

1 SGP you have this school is assigned a 38. How do you
2 reach that by comparing it to other schools? How do
3 you --
4 THE WITNESS: The calculation of an SGP is
5 a mathematical problem that data logs create, but I can
6 tell you in laymen's terms how I understand it, if you
7 would like.
8 Every student is assigned a growth
9 percentile based on an evaluation of how well that student
10 did in comparison to their academic peers. So, you take
11 all -- let's start with third grade. You take all third
12 graders at the school -- so, everybody who's tested, let's
13 start there.
14 Everybody who's tested gets a score on the
15 test, on the current year test, right. And everybody who
16 tested last year got a test on your last year's test. If
17 you match up the student in grade levels that got the same
18 score on the prior year test -- and you've got to take a
19 step in between there -- after you know everybody's scores
20 you put them in order, okay. So, then you've determined
21 their growth. Then -- and you determine, you look at
22 their individual growth and you look at -- and then you
23 pull that set of kids out from your school and you
24 compare, you take their growth and you line all of their
25 growth up.

1 So, my growth -- you and I took the test,
2 we scored the same last year so we're peers, and this year
3 you did better than I did.
4 MR. CONDOS: Thank you.
5 THE WITNESS: Your growth percentile is
6 going to be higher than my growth percentile. You take
7 your growth percentile to your school and it falls into
8 your mix somewhere. I take my growth percentile back to
9 my school and then my school then we line up all of our
10 growth percentiles. So, my growth compared to you and
11 everybody else who was like us a year ago and that's,
12 that's my, my growth. All of my friends at my school also
13 have their growth and so those are all lined up. And then
14 we look at who's in the middle and whatever that median
15 growth percentile is that means and, I think if we look --
16 and I want to use this school and put ourselves in it.
17 So, I already put you at another school.
18 I'm at this school. So if I'm at this school and my
19 median, the middle at this school is 38 percent in math
20 that means that, you know, all of my friends at my school
21 most of us were outperformed by people like you who did
22 better, because potentially they went to another school
23 where a better learning environment existed.
24 BY MR. CONDOS:
25 Q. Okay. And one of the problems in that is that

1 it didn't show how the actual student that was tested
2 increased or decreased from the previous year himself?
3 A. I think I've just explained that they're
4 individual growth percentiles put into that lineup.
5 Q. Okay. And so what happens if a child was in
6 another school the year before, do you pick up that score
7 and then you compare it with this new school?
8 A. So, I do bring the score with me from my
9 previous school, but if I were -- what's being measured is
10 my growth this year. So, it doesn't matter where I went
11 to school before, because what I brought to the table at
12 the beginning of the year is what I brought and what's
13 being assessed is how well I improved over the course of a
14 year compared to everybody else who started at the same
15 point that I did, regardless of where we went to school.
16 And how -- so, we're looking at just our growth over this
17 year compared to everybody else who started at the same
18 base, regardless of where they went.
19 Q. So, you're saying that if, say, an eighth grader
20 was testing at a fourth grade level last year and he was
21 far below and this year he's testing at a sixth grade
22 level, so he's still far below the ninth grade level.
23 A. He's an eighth grader, but --
24 MS. STILLMAN: But this year he'd be a
25 ninth grader, because last year he was an eighth grader.

1 Q. Let's say last year he was a seventh grader,
2 this year he's an eighth grader.
3 A. Okay.
4 Q. Okay. If he raised his AIMS by two grade levels
5 would that show that he raised his abilities by two grade
6 levels in any of those tests?
7 A. The AIMS test does not equate to grade levels.
8 Again, as I've testified to it does falls far below,
9 approaches, meets, and exceeds.
10 Q. So, he would -- in reality he would probably be
11 far below the eighth grade level, if he's now at a fifth
12 grade level he's not going to achieve the eighth grade
13 median in all probability?
14 A. In all probability, but that's not reflected in
15 the growth.
16 Q. Exactly. So, the two years that he may have
17 picked up in this one school is more than the three years
18 that he picked up in the six years in the prior schools.
19 So this school did provide an appropriate learning
20 environment, because it increased this boy's or girl's
21 school by two years in one year, but it's still going to
22 reflect that he was below the median?
23 A. Well, no, because everybody that he's being
24 compared to was at that same level before, right. So,
25 if -- and I'm sorry, if he was -- he gained two years,

1 right?
2 Q. Mm-hm.
3 A. So, that two years of growth shows up in those
4 scale scores, right. So, everybody else who was like him
5 at the beginning of the year and was also deficient and
6 not on track would then have had the same opportunity to
7 take the same test, right, and we're evaluating their
8 progress.
9 So, whether that two years of growth -- that two
10 years of growth is credited in the growth percentile to
11 the extent that his academic peers had the same
12 opportunity to learn and grow that year.
13 Q. What if there is no academic peer that's exactly
14 like this child, does the formula create somebody --
15 A. No.
16 Q. -- to compare with or does it find somebody
17 close?
18 A. The academic peers are, are those students who
19 in prior years have scored at the same level that this
20 student scored.
21 Q. What if there is nobody that scored at the same
22 level?
23 A. Based on the statewide system that -- I don't
24 know that has ever been brought up as a situation, but I
25 can't speak to that.

1 ADMINISTRATIVE LAW JUDGE: If -- I'm sorry
2 could I?
3 MR. CONDOS: I'm sorry, go ahead.
4 ADMINISTRATIVE LAW JUDGE: What kind -- and
5 I know they break down into exceeds, meets, does not meet.
6 What kind of grades or scores are given on the AIMS test;
7 is it a number, a percentile score?
8 THE WITNESS: It's a number. They call it
9 a scale score.
10 ADMINISTRATIVE LAW JUDGE: Okay. So, you
11 could get a 38 last year and this year you could get a 58
12 and you would be compared against everyone last year who
13 got a 38 on that section of the exam?
14 THE WITNESS: So, growth is calculated
15 separate for reading and for math.
16 ADMINISTRATIVE LAW JUDGE: Okay. So, the
17 question posited was: If you scored a 38 and last year
18 nobody else in the state scored a 38 you couldn't evaluate
19 the growth of that student against similar peers, because
20 no one else in the state scored a 38 on that section of
21 the exam?
22 THE WITNESS: I -- yes, I believe that
23 would be true. I'm not sure that that's a reality.
24 ADMINISTRATIVE LAW JUDGE: Okay.
25 BY MR. CONDOS:

1 Q. Now, what we've been talking about was the
2 proficiency and the growth of the individual student, but
3 that same student --
4 A. Proficiency and growth are not the same so we
5 can't talk about that we've been talking about them that
6 way, because they're not the same.
7 Q. All right. But that student, we're talking
8 about that specific student, but when we look at the
9 school and you look at how the school or how many children
10 went up to appropriate level that lower score is going to
11 lower the school's score?
12 MS. STILLMAN: The SGP is the school median
13 growth, not the student median growth. It's the school
14 median growth.
15 A. It's the school median growth when you line up
16 all of the students at growth percentiles at the school.
17 Q. So, that student not meeting grade level is
18 going to lower the school growth level potentially?
19 A. Not if his academic peers -- not if he grew
20 better than his academic peers. Now, it would have
21 lowered the growth level.
22 Q. So, you're saying that comparison to academic
23 peers on AIMS applies to both sides, proficiency and
24 growth?
25 A. No, which is why I asked that we speak to them

1 separately. I'm not sure -- we're not talking about
2 growth anymore, you want to switch to proficiency?
3 Q. No. So, you're saying the growth of a school is
4 based upon a student and his peer comparison?
5 A. Median growth percentile, the SGP in 1A and 1B
6 is based on the median growth percentile of the school
7 based on its individual students performance.
8 MS. ANDERSON: Your Honor, the person that
9 just entered the room is Leslie Cooper and she's from our
10 office.
11 ADMINISTRATIVE LAW JUDGE: And she's not
12 testifying?
13 MS. ANDERSON: No.
14 ADMINISTRATIVE LAW JUDGE: Okay, thank you.
15 BY MR. CONDOS:
16 Q. And Special Ed students take the same test; is
17 that right?
18 A. Most of them, yes.
19 Q. Okay. Now, what happens if you've got a Special
20 Ed student who has a high IQ, but a difficult to lower
21 learning disability; how do you find a peer for that
22 child?
23 A. So, we're still talking growth, we're talking
24 peers?
25 Q. Growth peers.

1 A. So, in growth we don't look at outside
2 indicators. We look specifically at the academic peers so
3 it may not have been an academic peer with learning
4 disability. It's an academic peer who scored at the same
5 place in a prior year assessment.
6 Q. All right.
7 A. A student with disability to the extent that
8 accommodations are appropriate as included in their IAP
9 would be allowed to have those accommodations during their
10 testing and that isn't factored in either then when
11 looking at academic peers, whether or not accommodations
12 were provided or not. It's totally based on performance.
13 Q. So, a special ed child gets compared to a child
14 that has no special education or no disabilities, just as
15 long as the last year was the same score?
16 A. Could be the situation, yes.
17 Q. And wouldn't the growth be directly affected by
18 their disability? In other words, you have a high
19 functioning kid with a high IQ, but he's got a disability.
20 Now, he'll learn easier than a child with a lower IQ with
21 the same disability; isn't that true?
22 A. Potentially, but if you play that theory out
23 then they shouldn't have scored at the same level on the
24 prior year test potentially or there were other factors
25 involved in their improvement.

1 Q. So we don't know for sure -- we don't get raw
2 scores on children as compared to their peers for any
3 school, do we?
4 A. Your definition of peer and mine don't appear to
5 be the same for the -- I can speak to The Board's
6 definition of a peer and I think I've defined that.
7 Q. But I'm talking about an actual peer, a kid that
8 we're actually comparing this child to, to see if he had
9 comparable growth. There's no way to know who that peer
10 is that we're comparing it to so we can see if they
11 actually did match it up and actually did have a growth;
12 is that a correct statement?
13 A. No. I think that -- if I can simplify it. I
14 think that --
15 Q. Let me ask another question before you do that.
16 A. Okay.
17 Q. Where do you find the peer that they're compared
18 to?
19 A. Again, I think as I've testified, the peer is
20 the individual across the state who in prior years have
21 scored at the same level as this student scored for the,
22 for the purpose of identifying growth.
23 Q. And how do you verify that, that that child is
24 scored at the same level? Is there a way to verify that
25 this peer is actually being compared to a real peer?

1 A. I believe that -- yeah. The department's
2 database could probably generate that information for you.
3 Q. It could. So, they would be able to match this
4 child up with another child? I mean, so we could match
5 head to head peer that they're being compared to?
6 MS. ANDERSON: Objection, Your Honor;
7 argumentative. The witness testified as to what the
8 definition of an academic peer is within the context of a
9 dashboard.
10 MR. CONDOS: Well, and that's -- Judge, I
11 think that's where part of the fundamental problem is.
12 The definition of a peer that they're using for the
13 dashboard isn't akin to reality. We have a special ed kid
14 who could be matched up with a non-special ed child and
15 their growth isn't reflected on what the school gives
16 them, but their personal disabilities and abilities as to
17 learning itself.
18 ADMINISTRATIVE LAW JUDGE: And you can make
19 that argument, but I believe she's answered the question.
20 BY MR. CONDOS:
21 Q. Okay. Now, on your -- let me go back.
22 What is this, what do you call this again?
23 MS. STILLMAN: Dashboard.
24 Q. Dashboard. I'm getting old, I lose these words
25 every now and then.

1 These scores are set up, as far as the
2 comparison scores are set up as a median; is that right?
3 A. You're referencing median so I'm going to assume
4 we're just speaking about the area of growth?
5 Q. Right.
6 A. Yes.
7 Q. Okay. And so -- and that's the median is also
8 set up for the school; is that right?
9 A. I don't know what you mean by, "set up."
10 Q. Well, is also used as a measure. Okay. If we
11 look at the SGP-1, Growth, on Exhibit 3.
12 A. Okay.
13 Q. Okay. We have a measure in math of 41 and while
14 it says points aside, that's what the median is that The
15 Board wants to be met? No -- okay.
16 Where does the median compare, where do they get
17 the median for the state that they compare the 41 to?
18 A. So, the median is also going to be 50. When you
19 line up your growth percentiles, even if nobody is at a
20 hundred percent, if I'm the highest I'm going to be in the
21 99th percentile. So, when you line everything up from one
22 to 99 and you work towards your middle you're going to get
23 50. So, 50 is the median meaning that, and again as I
24 previously testified to, The Board established that as
25 meeting the expectations, because a school that had an

1 actual median growth percentile of 50 would then be
2 demonstrating that half of its students at the school
3 either performed as well as, or better than their academic
4 peers.
5 The 50 that you're referring to is not the 50
6 that -- that 50 is in the framework. This 50 is the
7 points that were assigned, because it does not meet.
8 Q. Okay. So, is the system set up when we use
9 medians that 50 percent of the kids are going to be below
10 median as the basic guideline?
11 A. So, across the state?
12 Q. Yeah.
13 A. The median will always be 50. The median for a
14 school, because of the way it's set up the growth
15 percentile of the school would not need to be 50.
16 Q. No. But across the state and the median of 50
17 isn't it true that that's creating 50 percent of the state
18 students below the median?
19 A. When you're talking about typical growth --
20 Q. Right.
21 A. -- and you're evaluating and defining what
22 typical growth would be, typical growth would be what
23 happens in the middle.
24 Q. But the lower one, 49 and down they're not
25 progressing?

A. They're not progressing as well their academic peers.

Q. Okay. So, 50 percent of the state is set up under this formula not to be able to progress like the equivalent to their peers?

A. It's not set up so that they can't. It identifies the growth and it identifies what typical or expected growth would be.

Q. All right. But 50 percent of them wouldn't get to the expected growth, 49 percent?

A. When you set up a growth model such as this and you use a median student growth percentile what you're identifying is what typical growth is. You're not setting up students to say you'll never get there, but what you're saying is based on your performance, if we're looking at what middle ground is, 50 identifies what middle ground is.

MS. STILLMAN: Fifty says that 50 percent are higher, not that 50 percent is the middle ground. It's the distinguishing point between there being 50 percent that perform higher and 50 percent that perform at the low end.

THE WITNESS: So --

MS. STILLMAN: If you have a large population of students that score up in that 99 it's just

1 like if you're taking tallest to shortest. You can have a
2 bunch that are at six feet and then it suddenly drops
3 down. Well, that's going to be skewed, because you have a
4 lot that are at the -- I mean, you're counting down until
5 you get to that middle point, which is the median. The
6 median is the middle point when you line up from high to
7 low.
8 So, if you have you a large number of
9 students that are in the high range your middle point is
10 not necessarily the standard. Your middle point could be
11 a very large number if you have you an inherently large
12 number of the population that performs at a high level.
13 So, the median is when you -- when go from
14 the middle and you count down from the middle the middle
15 isn't necessarily the middle of achievement. That is it's
16 skewed depending on the performance of the students that
17 year, whether if you have a large population of students
18 that perform high or, conversely, if you have a large
19 population of students that perform at a low level that
20 number is going to be lower if you -- depending on the
21 scores that year, because the median is based strictly on
22 numbers. It's not based upon the actual score in the
23 sense that this score is about the average. It's about
24 how many perform high and how many perform low and the
25 median is that middle number.

1 THE WITNESS: So, generally, because of the
2 size of the state and the number of students that are
3 assessed there is traditional what you would say as a bell
4 curve. And so when you go to the median you're going to
5 get that middle bell curve.
6 You're right. A school that does things
7 very well may experience significant growth so that, in
8 fact, when their students are at growth percentiles are
9 all lined that their growth percentile is, in fact, above
10 50. It might be 65 as their middle, because when you do
11 the bell of them their middle point is 65.
12 Conversely, if you have a school that
13 doesn't grow their students, and you've got to remember
14 that that growth is based on academic peers and where
15 everybody else was, if they're not growing theirs as high
16 they're going to have that same bell, but their middle
17 because of where their points fell in their bell is going
18 to be reflective of potentially something like where it's
19 38 instead of 50, or instead of that 67.
20 So, it does depend absolutely on the number
21 of students who were high performance, but that
22 performance is based on those students performance that is
23 reflected on what they learned at the school that year,
24 because we're starting at ground zero. Meaning that we're
25 only being compared to everybody else who potentially came

1 with the same knowledge, because they scored at the same
2 level in prior test administration.
3 MS. STILLMAN: Right. But when you have a
4 median model you inherently have 50 percent that are lower
5 that do not perform, whether it be at the school or at the
6 individual level. There's never -- you can't have more,
7 because the median is set. So, you may be one point
8 below, but you're not, you're not meeting. There isn't a
9 meeting level there. It is based on that 50 percent. So,
10 you inherently have 50 percent of the population, whether
11 it's 50 percent of the school in the school growth model
12 or in the student model you have 50 percent of the
13 students at all time, 50 percent that are not meeting
14 based upon a median model. Because by saying the median
15 is what determines whether you are meeting or not meeting,
16 you are inherently saying 50 percent do not meet, because
17 they, they are below that median.
18 THE WITNESS: I think on a state level
19 that's true, but when you take those individual growth
20 percentiles back to the school, because you're looking at
21 statewide, right. And then we take our grade -- our
22 percentiles back to our school. When we take those
23 percentiles back if everybody in comparison to their peers
24 performed at the high end as opposed to the low end, when
25 I go back to my school and I line those all up I'm still

1 going to get my middle point, but my middle point then is
2 reflective of what half of my peers, that half of the
3 students at my school did. And if my middle point is 67,
4 if my middle point is 85, I've outperformed that
5 percentage of my academic peers. I'm not sure I can
6 explain it any better than that.
7 BY MR. CONDOS:
8 Q. So, we're talking about here with the median
9 does apply for the state level, but you're saying when we
10 go back to the dashboard there's adjustments that are made
11 for you, that are made to reflect better on the score; is
12 that what you're telling us?
13 A. I'm not saying that adjustments are made. I'm
14 saying that our calculations are based on the State's
15 development of the growth percentile and the school being,
16 that each student being assigned a growth percentile and
17 those percentiles going back to the school and then the
18 school's median is established based on the data that they
19 own, which is the growth percentiles of the students that
20 they have.
21 Q. Right. But that's for the dashboard?
22 A. Yes, that's for the dashboard.
23 Q. So, if there's a deficiency in the state, and it
24 sounds like since they don't make these extra adjustments
25 that you make for the dashboard, the state's numbers can

very easily be off and not a good reflection of what --

A. I would not go on record as agreeing with that statement.

Q. Has The Board taken positions or differing from the State Board of Education's standards; in other words, do they look at the standards themselves as being deficient and is that why they created this dashboard?

A. When you're referring to the State standard I'm going to assume that you're talking about the "A" through "F" letter grade?

Q. Yes.

A. We're not talking AIMS, we're talking the "A" through --

Q. The letter grade.

A. -- "F" letter grade?

So, The Board determined that in its statutory requirement to adopt a performance framework that measured academic performance, that it would look at measures in addition to the State letter grade.

Q. So, it didn't feel that the State grade was sufficient enough to evaluate its schools?

MS. ANDERSON: Objection; argumentative.

ADMINISTRATIVE LAW JUDGE: What was the basis for that decision?

THE WITNESS: The basis, again, was

1 statutorily delivered. The Board determined that it
2 needed to develop a framework and that it, actually by its
3 inclusion of the state accountability identified that it
4 is a valid measure of performance, but again wanted to
5 look at other ways of measuring the school's performance.
6 Specifically, looking at growth separately for reading and
7 for math, as opposed to lumping the two together and
8 averaging them as the State does. So, it provides an
9 additional way to look at that growth.
10 Specifically when you look at proficiency
11 and the varying subgroups by being able to give the school
12 credit for its ability to grow students who by the nature
13 of their individual characteristics, such as not speaking
14 English or having not had the advantage of a preschool
15 education or whatever it might be, having an opportunity
16 to actually demonstrate that it has a program that is
17 successful and can produce proficiency rates that are at
18 least on par with other students in the state with those
19 similar characteristics.
20 So, they didn't do it because they didn't
21 like what the State Board of Ed was doing, but because
22 they wanted to be sure that they provided multiple
23 measures for a school to be able to demonstrate that it
24 is, in fact, improving student performance.
25 BY MR. CONDOS:

1 Q. So, prior to the "A" through "F" did The Board
2 ever take the position they didn't like the way The State
3 was determining meets, doesn't meet, or anything like
4 that, as far as their rating system?
5 A. The Board determined when it was looking at its
6 renewal processes that it should look at things beyond
7 just a determination of the State's legacy label, as we
8 previously stated what those are, and specifically wanted
9 to introduce and evaluate a school's growth. And, in
10 fact, it was with the assistance of the data experts at
11 the Charter School Association that helped The Board in,
12 in fact, establishing this growth model and brought the
13 growth model to the State, included it in the charter
14 school's evaluation that subsequently led to the State
15 Board of Ed's adoption and inclusion of a growth model in
16 its "A" through "F" letter grade process.
17 Q. Okay. And you say it was with the assistance of
18 the Charter School Association. Hasn't the Charter School
19 Association published an analysis and research that
20 specifically states that the "A" through "F" model is
21 deficient when it's measuring students with poverty?
22 A. I haven't, I haven't read that study in its
23 entirety.
24 Q. Okay. If I was to say that the study says that
25 the relationship between poverty and measures of student

1 achievement has long been a limitation of measure of
2 student achievement and education, would you agree with
3 that?
4 A. Would you say that again, please?
5 Q. Sure. The relationship between poverty and the
6 measures of student achievement has long been a limitation
7 of measurement of student achievement in education?
8 A. I, I can't say that that's an accurate statement
9 in as much as The Board specifically has a subgroup that
10 speaks to poverty students.
11 Q. I'm not talking about the dashboard right now.
12 I'm talking about as just a general statement that the
13 Charter School Association has made that there is a
14 deficiency with students, poverty students and the
15 measurement process?
16 MS. ANDERSON: Objection; relevance.
17 MR. CONDOS: Relevance goes to the "A"
18 through "F" standards that, but for that we wouldn't be in
19 front of the board now for a revocation.
20 ADMINISTRATIVE LAW JUDGE: Can you answer
21 the question?
22 A. I can't speak to data behind the Association's
23 research in this matter and I'm not an expert. I think I
24 stated I haven't reviewed that study in its entirety so
25 I'm not comfortable speaking to that.

1 Q. Okay. That study talks about differences
2 between children in poverty and how it affects their
3 learning process and you haven't looked at it at all or
4 you haven't read it to see what significance it may have
5 with your dashboard or with your rating system?
6 A. I, I would say that I have looked at that
7 summary statement and said, ah-hah, we're doing this
8 right, because our dashboard actually includes a measure
9 for students that are identified as poverty through this
10 free and reduced lunch program.
11 Q. If you're doing things right on the dashboard
12 would the corollary then be that the State is not doing
13 things right, because they don't have these adjustments?
14 A. No.
15 Q. Okay. They're doing it right even though they
16 don't have adjustments for the various levels that you
17 talk about that you make in your dashboard, is that what
18 you're telling us?
19 A. They're generating letter grades based on the
20 indicators that they chose to include in their "A" through
21 "F" determination. We're doing things differently based
22 on The Boards' determination of what they thought was
23 important in evaluating schools.
24 Q. And their primary determination is the AIMS test
25 and the scores statewide for the "A" and "F" models?

A. The data is used for the calculations of each of the varying measures and the data is the results of the students' performance on the AIMS test.

Q. Okay. If the Charter School Association made a statement that the "A" and "F" model still has limited use in portraying school quality due to its failure to adequately control the effects of poverty and fairly measure a school's contribution to learning would that be a true statement; would you agree with that?

A. Read that to me again, please.

Q. Sure. That the "A" and "F" model that the State uses has limited use in portraying a school's quality due to the failure to adequately control for the effects of poverty and, thereby, fairly measure a school's contribution to learning.

A. I think I would agree with that. I would agree that The Board agrees with that in the fact that it includes it in our academic framework and is weighted at five percent.

Q. Okay. So, if the test that led to the "F" grade by the State had flaws in it and was incorrect we wouldn't be, you wouldn't been issuing -- The Board wouldn't be issuing a letter of intent to revoke this school?

MS. ANDERSON: Objection; misstates the testimony.

1 Q. Well, I think previously -- Your Honor, I'll
2 withdraw that.
3 Previously you said the only reason we're here
4 today is because the school got an "F" grade and that
5 triggered The Board to make one of two decisions, one is
6 either to help the school or, two, to revoke it; is that
7 accurate?
8 A. That was the basis for the, yes.
9 Q. Okay. If they didn't get the "F" then The Board
10 wouldn't have looked at it, is that right?
11 A. That's true.
12 Q. Okay. Now, they really didn't get an "F" they
13 got a "D," is that right, for this last grade period?
14 A. The formula is set up so that the letter grades
15 that are generated based on test scores are A, B, C, D. A
16 determination of an "F" is done when a third "D" is
17 assigned, and then there has to be a determination
18 pursuant to statute as to whether that school is
19 designated as an "F" or something else.
20 Q. Okay. Now, prior to the three Ds, what were the
21 ratings of this particular school?
22 A. I don't recall specifically.
23 Q. I think it might be in -- isn't it true that
24 they were performing or performing plus?
25 A. I think I said I don't recall specifically.

1 Q. So, one of the reasons for the revocation is the
2 "F" grade, but the other reason is that you say The Board
3 made a determination that they failed to provide evidence
4 of a system that implemented and evaluated and revised
5 curriculum aligned with the Arizona College Career Ready
6 Standards; is that one of the reasons?
7 A. That's not what I stated in my testimony.
8 Q. Okay. But is that one of the reasons -- well,
9 okay.
10 A. I mean, those were your words, not mine.
11 Q. Okay. The -- all right. The reasons that you
12 have in the letter of intent to revoke that you submitted
13 to the school it says, "One of the reasons for the
14 2012-2013 school year the school was assigned achievement
15 profile letter of "F"."
16 Was that one of the reasons that the Board
17 decided to the issue that revocation?
18 A. Yes.
19 Q. And that then, in turn, caused them to fail to
20 meet the academic performance expectations?
21 A. No, the "F" was the trigger. They didn't meet
22 the state expectation, therefore, they're an "F."
23 In looking at the dashboard they didn't meet the
24 Board's expectations and then subsequently and after their
25 opportunity to submit through DSP process, the

1 Demonstration of Sufficient Progress process, they failed
2 to demonstrate they were making sufficient progress toward
3 the Board's expectations.
4 Q. Okay.
5 A. I believe that's what I stated.
6 Q. Okay. And so, are you saying that they didn't
7 produce any evidence to illustrate that they were making
8 some progress or making appropriate steps to promote their
9 educational environment?
10 A. I don't know that I'm saying they didn't provide
11 any evidence.
12 Q. It just wasn't sufficient?
13 A. It wasn't sufficient to demonstrate they were
14 making sufficient progress toward meeting the Board's
15 expectations.
16 Q. Who made the determination as to whether it's
17 sufficient enough?
18 A. The experts on my staff based on the use of the
19 Board's adopted valuation criteria.
20 Q. Does the adoption of the criteria specifically
21 state what is appropriate and what is not appropriate?
22 A. The documentation provides -- should we look at
23 it?
24 Q. Sure.
25 A. It's here. So, if we're looking at Exhibit 2,

1 Page 148. I think as I previously testified to, this is
2 the evaluation criteria that is included in the framework
3 that references in order to meet the Board's expectations
4 if we look at the valuation of their curriculum we're
5 looking for information that describes a system that
6 creates, implements, evaluates, and revises curriculum,
7 including any supplemental curriculum that aligns with the
8 State Arizona Academic Standards and then is evidenced by,
9 and there's a variety of things there that could be
10 provided. It is not intended to be limiting.
11 Those are certainly things that would meet the
12 criteria if they were included and, in fact, included in
13 one piece of it. But then that there's evidence that
14 whatever that system is that they created that it actually
15 was effective. Because one of the things that we haven't
16 talked about is the autonomy of charter schools and while
17 they have the requirement to teach the state standards
18 they, unlike districts and individual schools within a
19 district that might have to implement prescribed
20 curriculum in accordance with district standards, a
21 charter school with its own governing structure has the
22 opportunity to develop its own curriculum, make choices
23 about what curriculum it purchases off the shelf, make
24 determinations about how it's going to evaluate its
25 teachers, make determination about how it's going to

1 evaluate the effectiveness of its curriculum by benchmark
2 data or any kind of assessment data throughout the year,
3 but they get to choose the company that they might want to
4 pick. All of those things are up to them.
5 So, what we're looking at and evaluating and I'm
6 just focusing on curriculum at this point in time, is
7 really looking at whether or not the choices that the
8 school has made over time and implemented over time are
9 getting them results that will either get, will get them
10 to a point where they meet The Board's expectations or, in
11 fact, effective in improving pupil achievement based on
12 the data that they provide.
13 Q. So, the school doesn't necessarily have to reach
14 the Board's expectation in order to be able to stay open
15 and not get revoked?
16 A. Very specifically I think if you look at the
17 statute it says that they need to either meet the Board's
18 expectations or demonstrate sufficient progress toward the
19 expectations. The purpose of this process is to provide
20 the school an opportunity to demonstrate sufficient
21 progress toward those expectations and, in fact, we spell
22 out specifically the things that we want to see related to
23 curriculum instruction, assessment and professional
24 development, supported by data that get us to a point
25 where the school can say we're making great progress.

1 Q. And they have at least 60 days from the time
2 they receive the letter of intent to revoke to provide you
3 with that information or at least to demonstrate that they
4 are making progress --
5 A. So --
6 Q. -- under the statute; is that right?
7 A. Under the process and the statute. So, we're
8 taking two different things. When the DSP process is
9 assigned they've got two months to submit that to us and
10 then there's an evaluation process that proceeds from
11 there.
12 Q. Right. So, as we sit here today if the
13 testimony shows that they are implementing appropriate
14 education, appropriate data analysis, and that their
15 students are increasing their scores, that would be
16 satisfactory in avoiding the revocation?
17 A. Their testimony alone wouldn't be satisfactory.
18 And again, the Board has made the determination based on
19 its ability to review the documentation and the evidence
20 that the school has developed over time. So, it's not
21 about, oh, we're an "F" school we better do something
22 else. It's about, hey, three years ago we had an
23 indication that things weren't going well and we should
24 have started making some adjustments. And then a year
25 later almost we're still not making the progress that we

1 should, we better be looking at what we've implemented,
2 what's working, what's not working, why isn't it working,
3 and what should we do so that we're not in a position
4 where three years later our kids are still lagging,
5 because we haven't put the right people, the right books,
6 the right professional development, the right assessment
7 together so that we can demonstrate that what we're doing
8 is working.
9 Q. Okay. That's a nice scenario, but isn't it true
10 that when we had the legacy standards the State would
11 assign someone to assist the school, create the plan, to
12 work with them to try to make a better, make the school
13 achieve better?
14 A. There is a process in statute that identifies
15 state procedures for efforts that need to be made when a
16 school is put into a school improvement situation.
17 Q. Okay. And isn't it true when their first falls
18 below they were assigned an "A?"
19 MS. ANDERSON: Objection; relevance.
20 MR. CONDOS: Well, she just went through a
21 whole diatribe of they didn't do anything, a school didn't
22 do anything for three years. I'm showing that this school
23 did.
24 ADMINISTRATIVE LAW JUDGE: If you have any
25 knowledge you can answer the question.

1 THE WITNESS: I believe they were required
2 as part of an improvement process a number of years ago to
3 submit a school improvement plan.
4 BY MR. CONDOS:
5 Q. Okay. And they did submit it and they had the
6 assistance from the State, but there's no parallel
7 situation now with our grades; is that correct? There's
8 no parallel that unless the Board decides to save the
9 school there's no parallel to send outside source in to
10 assist the school in making sure that they are functioning
11 in a way that they're supposedly improving the educational
12 abilities of the children?
13 A. I believe that the State still has an
14 improvement, a school improvement process and it's -- I
15 can't speak to the specifics of it.
16 Q. Right. They still have it, but they don't
17 implement it unless the State Board for Charter Schools,
18 who has that choice and did have that choice on
19 December 19th, elects and asks for the State Board of
20 Education to assign somebody?
21 A. No, I don't believe that's a true statement.
22 Q. So, the State Board of Education can send
23 somebody out on an improvement plan without the approval
24 of the Charter School Board in an "F" situation like this;
25 is that what you're telling us?

1 A. First of all, the State Board of Education
2 doesn't make those decisions. It's the Department of
3 Education, which is a different body. The Department --
4 Q. Let's do it this way. Change that to Department
5 of Education and go with it.
6 A. The Department of Education and its policies and
7 procedures for when, and may be dictated by statute and/or
8 use of state or federal funds, dictates when and how it
9 intervenes in a school's improvement plan process. It is
10 not subject to, nor dependent on the Charter Board's
11 permission or direction.
12 Q. Right. And, in fact, the state did go through
13 so. So, it wasn't a situation where Founding Fathers did
14 nothing after they got their first falls below standards;
15 isn't that true? Founding Fathers made efforts?
16 A. I'm not sure in what timeframe you're speaking
17 to.
18 Q. After they had received their first -- they had
19 been receiving performance and after they received the
20 first one that fell below, which would be your first "D"
21 in the situation, they did make efforts with the State
22 Board of Education -- I mean, the Department of Education
23 to adjust and conform and put in additional measures to
24 help their students?
25 A. I think as you stated previously they did submit

a school improvement plan.

Q. Okay. And there's no evidence that they didn't implement any of that school improvement plan, is there?

A. I can't speak to that.

Q. Okay. And even if you have a plan if the students that you are receiving still are falling farther below than what the students that you had you're going to have a much more difficult time raising those students to the level that they need to be; is that a true statement?

A. Say that again.

Q. If you have students that are coming in far below their grade level you're going to have a harder time to bring them all the way up to the grade level; would that be true?

A. It may take time and additional resources, that's true.

Q. Okay. And it would take more than a year as a general rule, wouldn't it?

A. I wouldn't say it's a general rule. I can't speak to that.

Q. But it's a tougher situation for a school?

A. I think as I previously testified there are a variety of characteristics that bring challenges to a school and all schools are charged with serving those children.

1 Q. Okay. Now, if today and tomorrow the school
2 shows that every one of their students are making progress
3 would that, would that be satisfactory to eliminate the
4 revocation?
5 A. No.
6 Q. So, if I understand this right, the only
7 progress that's acceptable would be getting it up to Board
8 standards, performance standards?
9 A. What would have been acceptable is if during the
10 Demonstration of Sufficient Progress process the school
11 had demonstrated that it had the systems in place that
12 were, in fact, producing improved results.
13 Q. So, are you saying since the letter of intent to
14 revoke there's no way the school can show the Hearing
15 Judge that progress has been made in order for her to rule
16 that a revocation isn't proper?
17 A. There may certainly be evidence that shows that
18 there is recent data that might show that schools are
19 improving, but that analysis of that data whether or not
20 the school can speak to how, what systems they've had in
21 place that drove that, I mean, that's -- I think that's
22 why we're here. That's for her to decide. It's not for
23 me to say it's appropriate or inappropriate. That's why
24 we're here.
25 Q. You're not saying that the Board is prohibiting

1 the Hearing Judge to make that decision, are you?
2 A. I think I just said that's for her to decide.
3 Q. All right. And it doesn't have to be up to the
4 Board's standards of what their perspective standard is;
5 in other words, they're not going to get up to that level,
6 depending on the kids?
7 MS. ANDERSON: Objection, Your Honor.
8 Q. I'll withdraw it. I'll withdraw it.
9 Okay. Now, you didn't receive the "F" notice
10 until August, the latter part of August, first part of
11 September; is that correct?
12 A. Let me look at my exhibit. The e-mail from
13 Robert Gray, which is in Exhibit 1-B, Page BCS10,
14 indicates: "Martha, here are the official e-mail
15 notifications for each of the other charters confirmed
16 with F labels."
17 So, it was at that point in time that we
18 determined this was the official notice that we had "F"
19 schools that needed to be considered.
20 Q. Okay. So, in February of 2013 they weren't
21 under any scrutiny that would affect from a revocation
22 basis; is that right?
23 A. No, I don't believe that's true.
24 Q. Were you preparing a case in February of 2013 to
25 take to the Board for revocation?

A. I can't speak to a specific month, but based on the Board's academic intervention schedule that's included in the academic framework I can speak to where the school fell within the Board's monitoring and when it would have been possibly considered for disciplinary action by the Board.

Q. And so in February you were looking for information to submit to the Board for a revocation, or were you? Let me ask it that way.

A. Again, pursuant to the Board's intervention schedule there were processes in place based on their academic performance at the 10-year review and the plan they had put in place there was and is a process for the continuing monitoring that had the information not arisen for this school as an "F" school they would have been under a different evaluation process consistent with the Board's framework for a determination of the continuation of this charter, but the "F" determination came in prior to the assignment of the next step for the Board. And in not wanting the school to have to proceed in two different ways for the same purpose requiring the same documents we moved forward with the "F" determination, because that's statutorily required and came first.

Q. Okay. If you could turn to Exhibit BBB.

THE REPORTER: B or D?

MR. CONDOS: "B" as in boy.

THE REPORTER: Thank you.

BY MR. CONDOS:

Q. In February, at least February 5th of 2013 you were looking to find information on the school's compliance with regulations for the Department of Education?

A. Yes, I was.

Q. Okay. And did you send an e-mail on February 13th to a Jennifer Johnson with the Arizona Department of Education?

A. I did, yes.

Q. Okay. And in that second paragraph of that e-mail it specifically says you're looking for information regarding a specific charter school?

A. Yes.

Q. Okay. And that charter school was Founding Fathers?

A. Correct.

Q. Okay. And you were looking for information with respect to grants, special education, anywhere that they weren't complying?

A. Any -- I was looking for information by any division at the department that monitors the school's performance outside of the Board's monitoring at the

1 direction of the Board, that's correct.
2 Q. First of all, there was no violations, correct?
3 There was nothing out of, you know, the monitoring was all
4 satisfactory in those areas with the Department of
5 Education?
6 A. That's correct. I received no information
7 indicating otherwise.
8 Q. Okay. So, the first one you want to know if a
9 unit was monitoring them. The second one was, is it
10 currently in compliance, which they reported it was. And
11 if they're under a corrective action plan they were within
12 the timeframes of any submissions. And they weren't under
13 a corrective action plan; is that right?
14 A. Again, as I testified, I received no information
15 to indicate that there was any monitoring with the school.
16 Q. Okay. And then -- or could you read number
17 five?
18 A. Sure. So, again, putting this back into context
19 as you identified --
20 Q. No, no. Just, please, read it first.
21 A. Okay. "Or the charter holder is or has been out
22 of compliance and driving us crazy, because of evidence of
23 repeat, continuous, or egregious violations."
24 Q. And where in your book of statutes, regulations,
25 and policies gives you the power to ask for something like

1 this? Is there some place in there that talks about,
2 "driving us crazy?"
3 A. So, again, putting this back into context --
4 Q. Excuse me. Is there something in any of the
5 policies and books that you -- you know, seems like
6 everything we do has to be somewhere in here somewhere.
7 Is there anywhere in there that says you're supposed to
8 reply or ask a question is this school, "driving us
9 crazy?"
10 A. No.
11 Q. Okay. Wouldn't you think that was a little
12 unprofessional?
13 A. In as much as sometimes I get e-mails from the
14 department saying can you help us out, we're having a lot
15 of problems with schools or phone calls that say they're
16 driving us crazy, that didn't seem unreasonable at the
17 time, no. That is a category --
18 Q. But you never got any of those e-mails for
19 Founding Fathers?
20 A. Again, I've testified I did not.
21 Q. Okay. So, you were looking for any kind of
22 problem that the Department of Education had that you
23 could -- against Founding Fathers?
24 MS. ANDERSON: Objection; argumentative.
25 MR. CONDOS: Cross-examination is

1 argumentative, Judge.
2 ADMINISTRATIVE LAW JUDGE: You can answer
3 the question, if you can.
4 A. At the Board's direction I was told to complete
5 a complete compliance review of this school. And at their
6 direction then, because it was a complete compliance
7 review, I reached out to the department and said, hey, for
8 all of these areas that might be, that are evaluated or
9 could be evaluated would you tell me are they in
10 compliance, are they under a monitoring, if they're under
11 a monitoring are they timely in providing their responses
12 and if, in fact, they're not compliant, they haven't been
13 providing any evidence, they continuously are out of
14 compliance, let me know. So, that I would know the
15 category for which that compliance should fall.
16 Q. All right. And they did let you know and there
17 was nothing out of compliance?
18 MS. ANDERSON: Objection; asked and
19 answered.
20 Q. I'll withdraw that part of it.
21 But even in the special education area, which is
22 one of the big areas since this school has 30 to 35
23 percent Special Ed, and the restrictions that go with
24 that, there was nothing out of compliance, correct?
25 A. There was no response with respect to Special

1 Education.
2 Q. Okay. No response with respect to any violation
3 or any problems they were having?
4 A. There was absolutely no response.
5 Q. Okay.
6 ADMINISTRATIVE LAW JUDGE: Okay. I'm going
7 to go ahead and stop you there and we will go ahead and
8 break for lunch. We'll come back shortly after
9 1:00 o'clock. I like to give a little extra lee time so
10 that people who aren't familiar with the area can find
11 somewhere. Is anyone going to be staying in the room?
12 THE REPORTER: Me.
13 ADMINISTRATIVE LAW JUDGE: You, okay. Then
14 I won't lock you in. So, we will go off the record at
15 this time.
16 (Recess taken 11:46 a.m. to 1:13 p.m --)
17 ADMINISTRATIVE LAW JUDGE: We are back on
18 the record continuing with Cross-Examination.
19 MR. CONDOS: -- judge, I noticed I was
20 reviewing my notes right now, I forgot to offer
21 Exhibit BBB into evidence.
22 ADMINISTRATIVE LAW JUDGE: Any objection?
23 MS. STILLMAN: D.
24 MS. ANDERSON: Triple "D" as in --
25 MS. STILLMAN: No. Oh, no, no.

1 ADMINISTRATIVE LAW JUDGE: "B" as in "boy."
2 The e-mail --
3 MS. ANDERSON: I don't have any objection.
4 ADMINISTRATIVE LAW JUDGE: Okay,
5 Exhibit BBB is admitted.
6 (The Charter School Exhibit No. BBB
7 was admitted.)
8 BY MR. CONDOS:
9 Q. Okay. So, Ms. Rowe, just so I can have both the
10 State's "A" through "F" and the snapshot are using the
11 AIMS test as the base numbers?
12 A. Both the "A" through "F" and the Board's
13 academic dashboard use the results of the AIMS test, yes.
14 Q. Okay. Now, in the Board's dashboard there are,
15 they try to equalize some of the special groups, the ELL,
16 and the free and reduced lunch, and the SPED. And I
17 believe that you said that these special ed kids are
18 matched up with someone of an equal score before in order
19 to determine comparison?
20 A. I said no such thing.
21 Q. Okay. What did you say?
22 A. So, again, in proficiency we're talking about
23 the percent of students who are passing. And so in the
24 subgroup SPED we're looking at the performance of the
25 students identified as special education students at the

1 school, and all students identified as special education
2 students in the state and their performance on the AIMS
3 test. It has nothing to do with growth. It's all about
4 the percent passing. So, in this case the special
5 education students identified and included in this measure
6 for Founding Fathers had a nine percent pass rate and the
7 state overall in the category of math, excuse me, had a
8 23.6 percent pass rate.
9 Q. And there's no distinction or identification to
10 match up and make sure that we're dealing with special ed
11 students with similar disabilities when you compute this?
12 A. That's correct.
13 Q. Okay. Now, wouldn't it be a fair statement to
14 say that students with more severe disabilities would
15 score lower on a test than a child or a special ed that
16 doesn't have those same disabilities?
17 A. I'm not the sure that we could say that without
18 talking specifically about the disability.
19 Q. Okay. I'll give you an example and I think I
20 talked about it earlier. We have a student that's got a
21 good IQ, a hundred let's say, but he has learning
22 disabilities so he doesn't learn or he learns differently.
23 Another child who has an IQ of say 75, similar learning
24 disabilities. If you looked at those two would it be the
25 first student who has the hundred IQ more than likely

1 score higher or grow quicker than the other one?
2 A. So, again, this measure has nothing to do with
3 growth. We're talking about the percent of students
4 passing. And whether either of those students with their
5 given IQs and the additional instruction and supports that
6 are provided at the school, whether or not one or the
7 other would perform better than the other I can't speak to
8 that.
9 Q. Okay. And would that be passing for their grade
10 level?
11 A. Yes.
12 Q. Okay. So, if they weren't at the grade level
13 before or a couple years behind grade level the odds are
14 they probably wouldn't be at grade level when they tested
15 again this year?
16 A. I can't speak to odds.
17 Q. Okay. Well, that would be -- let's say that
18 happens, those kids would be reflected as not passing the
19 AIMS test?
20 A. Any student that doesn't pass the test is
21 reflected as not passing the test.
22 Q. Okay.
23 A. Regardless of where they started.
24 Q. Okay. Now, I see there's no delineation for
25 homeless students. Would you believe that students who

are having difficulties in structured home would have a tendency to have lower grades than a student from a normal household?

A. I'm not sure that I agree with your statement that there's no measure for homeless. Theoretically, a student who is eligible for a free or reduced lunch would probably be related to their poverty level, right. And a homeless student generally you would equate not having the financial means to have their parents' support at home. And so I think that your homeless kids would potentially be incorporated and probably are incorporated in that FRL subgroup.

Q. Okay. But wouldn't you agree that the homeless child is coming to school with a bigger disadvantage than even a child that is poor that's getting a free or reduced lunch?

A. I think I already testified to the fact that the reason the Board picked each of these subgroups is because they come to the school with additional learning challenges or deficits and the purpose in separating them out is to be able to provide an opportunity for the school to show how well they do with those kinds of challenged kids as compared to the rest of the state students of those same populations.

Q. And now do the schools ever get the hard numbers

1 that go into computations that are in your dashboard?
2 A. As I previously testified to, all schools get
3 their, have access to their AIMS data.
4 Q. The AIMS data is the summary though, isn't it,
5 the scores?
6 A. No, it is not.
7 Q. Well, how about the dashboard do they get access
8 to those and see the adjustments that you're making?
9 A. I'm not sure what you mean by adjustments.
10 Q. Well, you have some adjustments, as you said,
11 for the subgroups?
12 A. I've never said adjustments.
13 Q. Okay. What's your word? You classify those or
14 you look at those differently?
15 A. Again, in the area of proficiency we have five
16 measures. Three of those measures deal with independent
17 subgroups of classification of students.
18 Q. And can the school see and look at the numbers
19 that went into that computation?
20 A. The school has the data for their own
21 performance, because they get their test data and they
22 know who they have identified as free and reduced, ELL, or
23 special education students in their test documents. That
24 is all school reported information that then when the test
25 results come back and are provided and the school has

1 access to that data they can see specifically what percent
2 of their students in each of those subgroups passed. Do
3 they have access to the overall state data and the
4 underlying individual data, no, that would be a violation
5 of --
6 THE REPORTER: Violation of?
7 THE WITNESS: FERPA. I'm sorry.
8 F-E-R-P-A.
9 THE REPORTER: Thank you.
10 BY MR. CONDOS:
11 Q. But it wouldn't be a violation of FERPA, would
12 it, if it was their school's?
13 A. No. I already testified that they get their
14 student information back.
15 Q. Okay. So, this dashboard, which was part of the
16 Board's curriculum goals was actually brought before and
17 there were hearings held on it, I think you testified to?
18 A. The Board --
19 Q. Not hearings, but at least members were allowed
20 to discuss it and give input to it?
21 A. The Board doesn't have curriculum goals. I
22 don't understand your question.
23 Q. Well, all right. The academic progress and
24 performance goals, okay. The section where the dashboard
25 is found, which is the -- yeah, the performance work,

1 number two.
2 A. The Board's academic performance framework and
3 guidance document?
4 Q. Right. I think you testified that that was a
5 process before it came to that finalization?
6 A. That's correct.
7 Q. Okay. And how many meetings were held to
8 discuss this?
9 A. I don't recall.
10 Q. Okay. Were stakeholders and charter school
11 people and parents and other folks able to come to those
12 meetings?
13 A. They were public meetings, yes, they could have
14 come.
15 Q. Did charter holders testify with respect to
16 those standards or provide input?
17 A. Yes.
18 Q. Okay. And did any parents or other folks come
19 in and testify and provide any input?
20 A. Not that I recall, no.
21 Q. Okay. Now, the fact that they testified and
22 provided input were there any objections to the standards
23 as they were submitted by charter schools?
24 A. There were a lot of discussions about the why
25 the Board was doing particular things and the indicators

1 that were being identified and the measures as they were
2 developed. There were questions raised about the
3 appropriateness of cut scores and why they were being set
4 the way that they were. I don't recall that anybody stood
5 up at the board meeting where this was adopted or at the
6 subcommittee meetings to say I, I, you know, I, I disagree
7 with this process or what the Board is trying to do.
8 Q. Okay. And how many of the board members were on
9 the committee that worked on this?
10 A. It's a subcommittee of the Board. There may
11 have been three or four assigned. I don't recall.
12 Q. Okay. Out of the 11 who was it that put the
13 final draft together?
14 A. It was a collaborative effort.
15 Q. Okay. But who was it that set it up in the
16 format that it is right now so that the Board would look
17 at it and approve it as their policy -- let me rephrase
18 that.
19 Was the staff the group that put together this
20 performance program to submit to the Board on the day that
21 they formally approved it?
22 A. Yes.
23 Q. Okay. Did the three or four board members that
24 were on the committee did they get a chance to review it
25 before it went to the full State Board for Charter

1 Schools?
2 A. I would have to look back at the meeting
3 materials and the documents. We talked about it in
4 various components. If you're asking whether or not the
5 materials collect as an entire document or whether it was
6 here's a draft and here's this section and that section, I
7 honestly don't recall at which stage the materials were
8 put together as a comprehensive packet.
9 Q. Okay. And did the Board approve this all at one
10 time or did they approve it in sections?
11 A. They approved it in its entirety.
12 Q. Was there any input from the Board or any
13 changes made at the Board meeting when they accepted it
14 with respect to this policy or did they accept it just as
15 was submitted?
16 A. I don't recall whether they approved it as it
17 was presented or whether it was approved with the
18 revisions that they incorporated during the discussion.
19 Q. Okay. Now, we talked about you and the staff
20 looking at Founding Fathers before the "F" grade came out.
21 When the decision to move forward with the "F" grade and
22 presented to the Board was there any discussion with
23 respect to the staff members on the preparation? I think
24 you said Martha Morgan was the one who prepared it; is
25 that right?

1 A. Martha Morgan is the one who prepared it. I'm
2 not sure I understand what you --
3 Q. Okay. Now, do you remember receiving an e-mail
4 back around December 3rd before you submitted it, from
5 Martha Morgan that said, "I left the grade rate section
6 in, but after reviewing the data I don't think it supports
7 our position. They would argue their population makes it
8 difficult to graduate them in four years. I changed
9 wording in two areas in the timeline and tracked it since
10 you had reviewed it earlier so you can see the change."
11 Did you ever receive an e-mail that said
12 something like that or said that?
13 A. Yes.
14 Q. Was it the staff's decision to -- when it talks
15 about the decision, was it the staff's decision at that
16 time to submit a recommendation that the Board revoke the
17 charter of Founding Fathers, December 3rd?
18 A. I believe that that e-mail addresses not an
19 entire decision, but a specific section of the report as
20 it relates to the information that we had with regard to
21 the branding.
22 Q. Was it the staff assembling information during
23 this period of the time before, as part of the portfolio
24 that was submitting was it the staff's position that it
25 was going to be a recommendation to revoke the charter?

1 A. A recommendation doesn't occur until the entire
2 review is completed and the analysis of all the data is
3 done and the information is looked at in totality.
4 Q. So, when was the decision made to suggest to the
5 Board and recommend to the Board that Founding Fathers
6 should be revoked?
7 A. Prior to the completion of the staff report.
8 Q. Okay. And what date -- what date would that be,
9 roughly?
10 A. It would have been probably within three weeks
11 of the Board meeting.
12 Q. Okay. So, the Board meeting was on the 19th.
13 So, if this letter was -- e-mail was December 3rd, were
14 you in the process of making that recommendation at that
15 time?
16 A. Again, we were in the process of developing the
17 materials, analyzing the data, and putting together the
18 materials for a staff recommendation.
19 Q. And how, what factors does a staff use in making
20 that recommendation?
21 A. They look at the information that the evaluation
22 criteria of the DSP, collectively they look at the
23 individual components, the curriculum, the instruction,
24 the assessment, the professional development, whether or
25 not the school has the data to support it, whether or not

1 that data shows that these are processes that have been
2 implemented and are showing effectiveness over time,
3 whether and/or -- well, I'll leave it at that. Whether or
4 not they're being effective over time and whether or not
5 with the information that they had in consideration of the
6 systems whether or not the school demonstrated that it has
7 the means and has implemented systems that will support
8 continued improvement as reflected in the data that
9 they've provided.
10 Q. Okay. Now, isn't it true at this time that all
11 the schools in the state were in the process of switching
12 over to Common Core as a curriculum foundation?
13 A. The State Board of Education adopted Arizona
14 College and Career Ready Standards, as they are now
15 called, back in 2010. The state provided an integration,
16 a schedule for transitioning. Those schools could
17 minimally meet that transition schedule or they could move
18 more quickly if they chose to.
19 Q. All right. So, wouldn't one of the factors that
20 the school didn't have everything you were looking for be
21 the fact that they were still in the transition process of
22 integrating the Common Core curriculum and regulations
23 along with the curriculum that they already had?
24 A. Consideration was absolutely -- there was
25 consideration given to that transition and whether or not

1 this school was, had transitioned timely in accordance
2 with the State Board of Ed's schedule.
3 Q. So, if there was consideration of that factor
4 why is it not in your report to the Board, in your
5 portfolio?
6 A. I believe that in our materials we do indicate
7 which grade levels had transitioned and which ones hadn't
8 and whether or not there were grade levels that weren't
9 aligned in accordance with the adopted standards.
10 Q. So, when you made the determination that they
11 weren't aligned did you look at all the curriculum? First
12 of all, did you look at any of the curriculum that the
13 school had?
14 A. Are you asking if I specifically did?
15 Q. Well, first of all, yeah. When you went out
16 there, you went out there, I believe, in March?
17 MS. ANDERSON: Objection; this misstates
18 the witness' testimony. She testified that she did not go
19 out on the site visit for this Demonstration of Sufficient
20 Progress process.
21 Q. She went out in March though, a site visit,
22 didn't you?
23 A. I did go in March. The information that was
24 obtained in March is not included in the portfolio
25 materials.

1 Q. Okay. In March was a report prepared with
2 respect to what was discovered and findings at the school?
3 A. No, there was no report.
4 Q. Okay. Did you write a letter to Founding
5 Fathers on March 19th of 2013 regarding your visit and
6 regarding the performance management claim?
7 A. I don't remember the day, but I did write a
8 letter, yes.
9 Q. Okay. And in that letter did you deal with
10 specific categories that were important in doing your
11 monitorship?
12 A. Yes.
13 Q. Okay. And with respect to the program of
14 instruction did you state that, let's see here, let me
15 help you. Turn to Exhibit YY. If you would look at
16 No. 4 -- first of all. Is that the letter that you
17 prepared and sent to Mr. Stewart?
18 A. It is, yes.
19 MR. CONDOS: Okay. And I would move to
20 admit Exhibit YY.
21 ADMINISTRATIVE LAW JUDGE: Any objection?
22 MS. ANDERSON: No objection, Your Honor.
23 ADMINISTRATIVE LAW JUDGE: Exhibit YY is
24 admitted.
25 BY MR. CONDOS:

1 Q. Yeah. If I could turn your attention, first of
2 all, to No. 4, which talks about the daily instructional
3 schedule. You stated that the staff or -- was it somebody
4 else besides you?
5 A. Yes.
6 Q. Who all was present?
7 A. I believe that Andrea Leader and Sue Thompson
8 were also with me.
9 Q. Okay. So, when it says staff I'm assuming the
10 three of you collectively would be involved in that,
11 right?
12 A. And/or one or more of us, yes.
13 Q. Okay. So that one says that you reviewed the
14 seven class schedules and found that the holder met the
15 requirement for the annual hours of instruction in each
16 grade here; is that correct?
17 A. Yes.
18 Q. Okay. And would that be an important part of an
19 appropriate learning education -- learning environment for
20 student progress?
21 A. It's a component of the statute that requires
22 that the charter school provide the appropriate hours of
23 instruction for the student.
24 Q. Right, but that could also be an appropriate
25 part of an appropriate learning environment for student

1 achievement?
2 MS. ANDERSON: Objection; asked and
3 answered.
4 MR. CONDOS: She didn't answer.
5 MS. ANDERSON: She provided --
6 ADMINISTRATIVE LAW JUDGE: What was the
7 question?
8 Q. That would be a portion of an appropriate level
9 of -- damn it -- level of appropriate educational learning
10 environment?
11 A. An appropriate --
12 Q. A portion of -- would that be a part of an
13 appropriate learning environment for students?
14 A. That the school comply with statutory
15 requirements, yes.
16 Q. Okay. Now, if I could refer you now to No. 9,
17 Program of Instruction. It said, that first paragraph
18 says that you met with the academic leaders and discussed
19 the assessments, discussed a number of things, but most
20 specifically in the second paragraph it says that the
21 academic leaders stated that the teachers are currently
22 participating in Intel Math, an ADR development course in
23 mathematics; are you familiar with Intel Math?
24 A. Not really, no.
25 Q. Okay. Was -- is there anything that Intel Math

1 or anything that you saw there that would make that an
2 improper curriculum component for the math teaching of the
3 students?
4 A. No. It would be appropriate for teachers to
5 seek professional development in areas where they felt
6 they needed improvement.
7 Q. Okay. And that was grounded in problem solving
8 approach to topics such as integer arithmetic, decimals,
9 et cetera, that was your finding; is that right?
10 A. That is a reflection of the statement. Again,
11 the entire sentence reads, it starts, "The academic leader
12 stated that that's what they were doing."
13 Q. Did you find out that they stated falsely to
14 you?
15 A. No.
16 Q. Okay. So, as far as you knew and the fact that
17 you included this in your report it was a true statement?
18 A. Yes.
19 MS. ANDERSON: Object.
20 Q. Okay. Then the next paragraph talks about after
21 reviewing the instruction materials and observing a number
22 of classrooms intermittently during the afternoon. So,
23 you reviewed instruction materials on that particular
24 date, correct?
25 A. Yes.

1 Q. Okay. And then you also observed a number of
2 the classrooms on that particular date of March 5th and
3 the morning of March 6th?
4 A. One or more of us did, yes.
5 Q. Okay. So the staff then, your staff
6 acknowledged that the school had processes in place to
7 identify gaps in individual student learning and introduce
8 new concept to students through direct instruction
9 targeted to the highest grade in a multi-age classroom; is
10 that correct?
11 A. Yes.
12 Q. So, on that date March 5th and consistent with
13 your letter that you wrote, there were appropriate
14 processes in place to identify if there was any gap in a
15 student's learning as you found at that time; is that
16 right?
17 A. I don't think I understood your statement.
18 Would you say it again, please?
19 Q. Okay. On that date you found that the school
20 had processes that -- put it this way. There was evidence
21 that the school had processes to identify gaps in the
22 student learning process?
23 A. They had -- they had processes that they shared
24 that would identify gaps in individual student learning.
25 Q. Okay. And then it goes on to say that the

1 implementation of the improvement plans provides for
2 individual remediation. Would that be something like a
3 private educational or individual educational plan for
4 each student?
5 A. It goes on to say, if I may read it, "That the
6 academic leaders of the school shared that they believe
7 that the implementation of their improvement plan provides
8 for individual remediation, while continuing the learning
9 of all students through various multigrade configuration
10 classrooms."
11 If they shared that they believed that they had
12 mechanisms in place that would allow them to provide the
13 necessary remediations for those students would be
14 successful, yes.
15 Q. All right. Did you see anything or review
16 anything that would make that fact not true on that date?
17 A. No.
18 Q. Okay. So, there was evidence of those tasks and
19 those responsibilities in existence on that date?
20 A. No, there wasn't necessarily evidence that there
21 was -- again, these are -- they shared that they believed
22 that the implementation of their plan provides for these
23 things. There wasn't evidence that they actually had
24 provided the pullout and remediation, but they had a plan
25 for doing it.

1 Q. Correct. Ms. Rowe, I don't think you want us to
2 believe that if somebody said that, that you didn't ask to
3 see it. Did you ask to see the plans or any of this
4 information that they were telling you?
5 A. If it's a plan that they just created and they
6 haven't implemented it yet then it's not a matter of
7 whether or not the plan doesn't exist. It's a matter of
8 whether or not there's going to be success with the plan.
9 Q. Well, that's great, but in this particular case
10 they told you they had it. So, if they told you they had
11 it wouldn't you want to see it if you had any doubts about
12 it?
13 A. If I had doubts, yes.
14 Q. Okay. You didn't have doubts, because you never
15 looked at it?
16 A. I can't tell you whether I looked at it or not.
17 I can't recall.
18 Q. But if you did look at it and found it defective
19 it would be in your report; is that right?
20 A. At this point in time it's the school's
21 opportunity to show that they have systems in place,
22 processes that they plan to implement moving forward.
23 Q. Okay.
24 A. So, I would be looking for them to share the
25 information that they have and provide support

1 documentation when they had it.
2 Q. All right. If they provided you evidence and
3 they've told you this and you didn't ask to see anything
4 else, so you took them at their word; is that right?
5 A. Possibly, yes.
6 Q. Okay. And you didn't include this, you know,
7 any violations or any fact in here that they didn't have
8 any evidence to support this?
9 A. True.
10 Q. Okay. And they also told you that additional
11 resources were being collected on additional reporting
12 data, but they were limited due to budget constraints.
13 Isn't it true that the State of Arizona cut some of the
14 charter, some of the educational money so that, I believe
15 it was three years ago that they didn't get one of the
16 checks, in fact, out of the 12?
17 A. No. They did not, not get one of their checks.
18 I believe that's an inappropriate statement.
19 Q. They didn't get it when they were supposed to
20 get it in July and then when they then -- do you remember
21 that?
22 A. No. I'm sorry, I can't speak to that. If you
23 have documentation that would show a timeframe for when
24 schools were paid I'd be happy to look at it.
25 Q. As the Executive Director of the State Board for

1 Charter Schools you don't remember three years ago that
2 the charter schools did not receive money for a
3 July payment when the State was having its budget crisis;
4 is that what you're telling us?
5 A. No. I'm saying that I remember that the schools
6 were paid. I can't speak to and don't recall the exact
7 dates when funds were shared.
8 Q. Well, 580 schools there weren't any complaints
9 about, to the State Board that, hey, we're not getting our
10 money, can you do anything?
11 A. It's not the State Board's issue and, no, the
12 State Board can't do anything, so, no.
13 Q. So, the State Board doesn't -- so, are you
14 saying it's the policy now of the State Board not to try
15 to assist any of its charter schools when they're having
16 problems with the Department of Education?
17 MS. ANDERSON: Objection; relevance.
18 MR. CONDOS: We're talking about oversight
19 and assistance. I think this is right in there with it.
20 ADMINISTRATIVE LAW JUDGE: I don't think
21 it's relevant to the issue to be determined today.
22 BY MR. CONDOS:
23 Q. All right. Now, prior to your preparation of
24 the report Ms. Morgan, Ms. Morgan and another site group
25 went out to look at the site to obtain additional

1 information after they submitted their performance
2 management plan?
3 A. If we're talking about the report that was
4 included in the portfolio, yes.
5 Q. Okay. And that was November 20th, of 2013, I
6 think it's BCS0078.
7 MR. CONDOS: Your Honor, I don't remember
8 if I asked to submit. I think it's already in. It's
9 Exhibit 1-G; is that right, the letter of March 19th,
10 2013.
11 ADMINISTRATIVE LAW JUDGE: The YY?
12 MR. CONDOS: Yeah, I'm sorry, YY.
13 ADMINISTRATIVE LAW JUDGE: Yes, that's in.
14 BY MR. CONDOS:
15 Q. Okay. All right. And did -- was a report
16 generated following that visit on March 20th --
17 November 20th of 2013?
18 A. So, we are confirming the date of the visit, is
19 that what you were hoping to do first?
20 Q. Yes. Was the visit November 20th, 2013?
21 A. Yes, it was.
22 Q. Okay. And following that was a report generated
23 as to the evidence that was requested and the items that
24 were reviewed at the site visit?
25 A. A report was generated based in totality on the

1 DSP process, yes.
2 Q. And is BCS78, 79, 80, and 81, the report that
3 was generated subsequent to their visit as to what they
4 reviewed at the site?
5 A. No, this is not the report.
6 Q. No, I -- all right. What -- how would you --
7 what would you call this?
8 A. Pages 78, 79, 80, and 81?
9 Q. Yes.
10 A. Okay. I think as I previously testified to,
11 this is the list of the documents that were requested to
12 be provided by the school in advance of the meeting as was
13 listed in the letter that was sent by Martha Morgan and
14 then it additionally is a detailed list of the documents
15 that the school provided either at the site visit or
16 subsequent to that visit, within the 48 hours.
17 Q. Okay. And, in fact, right above the box it says
18 that the table reflects materials and items that were
19 confirmed on site for Jefferson Academy; do you see that?
20 A. Correct.
21 Q. Okay. Now, with respect to -- and the evidence
22 requested went directly towards the, at least the staff's
23 determination or preparatory -- in preparing for the
24 determination of what report they would generate and go to
25 the Board of Charter School; is that correct?

1 A. I don't think so, no.
2 Q. Okay. All right. But it, it did deal with the
3 evidence it requested, so let's take a look at the first
4 one. It requested the individual learning plans. Now, at
5 the site your staff says that they were provided with
6 sample ILP forms for K8 and 9-12 and they were provided a
7 sampling of continued plans for specific students; is that
8 your understanding as well?
9 A. Yes.
10 Q. Okay. Now, so that was evidence dealing with
11 the individual learning plans?
12 A. That's what they provided, yes.
13 Q. Then the next category talks about completed
14 student goal sheets and in that it says that they were
15 provided for grades K8 and then most students had goal
16 sheets which demonstrated weekly improvement for reading
17 sound fluency, word fluency, comprehension, and math
18 computation based on the probe for AIMSweb®. That's what
19 they received on that date as reflected here?
20 A. That's correct. And I, I am happy to say that
21 for each of these evidence listed and the bulleted items,
22 the corresponding bulleted items that are checked if they
23 are there my staff saw them as they're represented here.
24 Q. Okay. So, all the items that were reviewed that
25 are listed there and reviewed on the reviewed at site were

1 evidenced that Founding Fathers produced to you in
2 satisfaction of the evidentiary requests that were made to
3 them, correct?
4 A. They, they were produced as requested, yes.
5 Q. Okay. And this receipt was made after, after
6 the initial evaluation of the Demonstration of Sufficient
7 Progress -- let me rephrase that.
8 After they completed this and came back was
9 there --
10 A. I'm sorry. When you say, "completed this," I'm
11 not sure what you're referring to.
12 Q. Okay. Well, after this report came back -- or
13 not report, but the demonstration of items, exhibits,
14 evidence of Demonstration of Sufficient Progress then
15 someone on the Board created the evaluation instruments
16 that you've marked as BCS 1 through F, 1-F?
17 A. 1-F?
18 Q. Right.
19 A. Is the evaluation document in its completed
20 form. It shows the review of the initial DSP document as
21 it was submitted and then the final determinations that
22 were made after the site visit and after having reviewed
23 all of the materials that were provided at the site visit
24 or within 48-hour timeframe provided to the school after
25 the visit concluded.

1 Q. Okay. Do you know after the staff who was out
2 there on the 20th received this whether they requested any
3 additional information from the school?
4 A. Whether they -- after they received what?
5 Q. After they filled out the Demonstration of
6 Sufficient Progress with the items that reviewed at site
7 did your staff ask the school for any additional
8 information?
9 A. After this document was completed with the
10 results, after the evaluation information collected from
11 the site visit and within the 48 hours, no.
12 Q. Okay.
13 A. I don't believe they would have.
14 Q. Okay. During that 48 hours if they had any
15 questions would they have sent the school a letter or
16 something saying this is unclear?
17 A. No.
18 Q. Okay. And why is that? Why don't -- if there's
19 something not clear for the staff who's looked at it and
20 we're talking about a curriculum or we're talking about an
21 event that could lead to revocation why doesn't the staff
22 ask for clarity from the school?
23 A. Again, the process and the purpose of the site
24 visit is to collect the information that the school
25 provided to the Board as it's demonstrating its sufficient

1 progress. The purpose of the site visit is to go out and
2 confirm the information that was described and provide by
3 the school, collect any evidence or review the evidence
4 that is identified in the DSP document as having met that
5 criteria, to confirm that it exists and its use, and then
6 collect any additional information that the school might
7 want to provide based on its receipt of the scoring
8 evaluation identifying where those deficiencies are and
9 saying, oh, we also have this or we might have this for
10 you to look at in case you consider that. Those materials
11 are to be produced at the site visit and then after the
12 conclusion of the site visit the school has 48 hours to
13 provide additional information. It would be appropriate
14 for the school in providing that information to also
15 include the purpose behind its provision of that
16 information.
17 So, given that the scoring criteria is
18 available, a discussion occurred at the site visit with
19 what the expectations were for the requirements and that
20 they have the time afterwards, I would not expect that the
21 school would provide information without giving some sense
22 of what its intended purpose would be so that staff
23 wouldn't have to interpret what it was to be used for.
24 Q. So, that's -- so, basically the staff was out
25 there investigating to see if what was originally said was

1 actually there?
2 A. The purpose of the site visit in part is to
3 confirm that the information that was provided by the
4 school in their submission of their DSP document and
5 actually be evidenced at the school, that is correct.
6 Q. So, if there was something that wasn't clear to
7 the staff that was out there trying to verify or seek the
8 information can you explain why they wouldn't ask the
9 school to clarify the point that they are not clear about?
10 A. Again, the purpose of the site visit is to get
11 that clarification. The purpose of the 48-hour window
12 after that is to give the school one last opportunity to
13 say here's the information that we talked to you about at
14 the site visit that we couldn't get our hands on, or,
15 gosh, after you left we thought we should have given you
16 this, too, so we've included it.
17 There wouldn't be a what is this, what does this
18 data mean, because the school, the expectation would be
19 that the school would have provided that.
20 So, no. Our processes are not set up so this is
21 a continuing ongoing exchange.
22 Q. And it doesn't have to be a continuing ongoing
23 exchange, but if there's no questions asked by your staff
24 and no confusion relayed to the school why would you think
25 that the school would want to supplement additional items?

1 It would seem that you would leave the impression to the
2 school that everything is okay.
3 A. That is not a correct statement.
4 Q. Well --
5 A. We never -- we do not leave the school with any
6 impression that everything is okay. That's not the
7 purpose of the visit.
8 Q. Well, it seems like on this visit the staff left
9 the school with no questions that the school needed to
10 answer?
11 A. No. The staff left having knowing that they had
12 provided the school with ample opportunity to provide
13 whatever evidence it chose to present as evidence that it
14 was demonstrating sufficient progress toward the Board's
15 academic performance expectations.
16 Q. Right, but there was nothing the staff said to
17 the school that said what you've given us isn't
18 sufficient, right?
19 A. They would not have made a determination of
20 sufficiency at the time.
21 Q. So, the -- all right.
22 Now, these people are professionals and -- well,
23 nobody asked the school for any additional information, so
24 the school didn't provide anything within the next
25 48 hours?

1 A. The school was provided an opportunity at the
2 end of the site visit they are left with you have 48 hours
3 to provide any additional information that you would
4 choose. There is no communication between the staff and
5 the school within that 48 hours initiated on our end to
6 say, hey, are you going to send us something else. It's
7 very clear that they have that timeframe to provide that
8 information.
9 Q. So, you're saying that the burden is on the
10 school to prove they have whatever they need to have?
11 A. Using the score criteria having been provided an
12 evaluation document, yes, it is up to the school in their
13 autonomy and their own right to collect and present what
14 they want to share that information with the Board.
15 Q. And if you look back, if you look to your
16 Exhibit 1-F. In the second paragraph, it's highlighted,
17 "That documentation of informal classroom observation was
18 provided by the teacher mentor, but the feedback was
19 verbal and no documentation was provided."
20 Now, the fact that no documentation was provided
21 doesn't mean that informal classroom observation was
22 provided by the teacher mentor. I mean, there was no
23 evidence to show that that information was not provided by
24 the teacher mentor, was there?
25 A. No. But I think your first statement was true

1 as well. Without documentation there is no evidence to
2 support that it did occur either.
3 Q. Statements are evidence, aren't they?
4 A. A statement can be evidence when there is a
5 question of the reliability of the information. Based on
6 the fact that there is a question raised about the
7 school's academic performance, it's capacity, and it's
8 system, by the mere fact that it's an "F" school I think
9 that it results in and the Board has developed two
10 processes where they can say what they want. They need to
11 be able to provide support documentation that it's
12 occurring and then initially and most importantly that
13 they have the data that shows that the things that they're
14 doing are working.
15 Q. Now, on this particular date none of your staff
16 went to speak to any of the teachers; is that right?
17 A. I can't make that statement. I wasn't there.
18 Q. If there wasn't any -- it seems to me that I
19 found this investigating, your staff was investigating and
20 they had questions about the verbal feedback couldn't they
21 have asked a teacher over and above the mentor so you
22 would have a second source to testify that, yeah, this is
23 the case?
24 A. The process is set up so that the school, the
25 staff meets with the school leadership team. There is no

1 specificity as to who can and can't be included or who the
2 school wants to include in those discussions. The staff
3 does not at that site visit go out and visit classrooms.
4 They don't engage in conversations with teachers off the
5 record or on the record unless they -- well, they don't
6 engage in discussions with individuals outside of those
7 that are selected by the school leadership to be included,
8 because the converse could be true. If we went out and
9 talked to a teacher who said something different than what
10 was said then it would be, well, you don't -- we didn't
11 hear them say that. So, it's very -- it's designed very
12 specifically to protect the school so that the information
13 that is shared is shared in a manner that is controlled by
14 the school.
15 Q. It's controlled by the process that you put
16 together?
17 A. Again, they can invite whoever they want to, to
18 attend that leadership team meeting.
19 Q. So, I guess the question is, if we're -- if
20 you're following the process are you leaving the reality
21 of the situation aside?
22 A. No. I think the data speaks to the reality of
23 the situation.
24 Q. Right. And in this particular matter also in a
25 second paragraph here it says, "In totality the school

1 demonstrated the beginning stages of a system to monitor
2 and evaluate standards and instructional practices."
3 A. Correct.
4 Q. So, it was there?
5 A. The beginning stages of a system was absolutely
6 there.
7 Q. Okay. Now, do we know where the beginning was?
8 It seemed like -- okay. Well, I'll withdraw that.
9 Now, going on with that particular paragraph if
10 you go down to professional development. It says in the
11 middle again in the highlighted area --
12 A. Wait. I don't see a professional development
13 paragraph within that paragraph, is that what you said?
14 Q. No. Page 2 of 19.
15 A. So, are you going to use your bates stamp, too?
16 Q. 6-0, okay, Professional Development. "The
17 school did provide documentation of agendas and sign-up
18 sheets for school-wide professional development dates."
19 A. Yes.
20 Q. Okay. And wouldn't that be satisfactory to talk
21 about the efforts that they're working with the teachers
22 and with the mentor to develop and continue the
23 professional development?
24 A. So, it says here that the school provided
25 documentation of agendas and sign-in sheets for

1 school-wide professional development days and a survey of
2 teacher interest for additional learning opportunities.
3 It goes on to say, "The school demonstrated an approach to
4 professional development, but no evidence of a
5 comprehensive professional development plan that aligned
6 with teacher learning needs or evidence of a well-defined
7 process for implementing new procedures and processes at
8 the school with a parent."
9 So, yes. We did indicate that they did provide
10 us with agenda and sign-in sheets for professional
11 development days, but again, there was no evidence that
12 these professional development days were consistent with a
13 plan that they had or aligned with the learning needs that
14 were identified.
15 Q. And again, nobody asked the school a question
16 for clarification of any of these?
17 A. At the end of the day a determination has to be
18 made --
19 Q. Let me just withdraw.
20 After this whole series was prepared, and the
21 judge can take a look at documentation that was submitted,
22 but evidently not satisfactory, but after this was
23 prepared when was this sent to the school?
24 A. The school doesn't actually receive a copy.
25 It's posted on the website and is available to everybody.

1 I don't believe that the final evaluation is sent back to
2 the school, but my staff who deals with that might be able
3 to answer that question.
4 Q. And why if the final evaluation is a
5 determinative factor as to what the Board is going to do
6 or determinative factor that the staff found deficiencies,
7 why is that not sent to the school?
8 A. It's made available to the school. Your
9 question was, was it sent to them. It is not, I believe,
10 sent to them, but they are aware or should be aware that
11 this process is occurring and that there's going to be
12 consideration by the Board, and they know the date of
13 board meeting and they know how to access our board
14 material. It's made available.
15 Q. When are they made aware of it? At the time
16 that the Board gets their information?
17 A. When are they made aware of what?
18 Q. Of the fact that this is in existence. This
19 report here that shows whatever deficiencies were set up
20 at the time that they visited?
21 A. Minimally they would know at the time that it's
22 posted and public.
23 Q. And that's how many days before the board
24 meeting?
25 A. It depends.

1 Q. And in this particular case do you remember how
2 many days it was before the board meeting?
3 A. I don't.
4 Q. Now, at the board -- I mean, if the school could
5 have received this earlier couldn't they have rectified
6 and at least provided evidence to the Board that these
7 items were evidenced and were documented?
8 A. The evidence and the documentation would have
9 been the materials that were already reviewed by the
10 staff, but they would have provided them to the staff.
11 Q. So, you're saying if they didn't give it to the
12 staff that the school doesn't have an opportunity to
13 defend itself in front of the Board on these allegations?
14 A. The Board has charged the staff with
15 implementing its Demonstration of Sufficient Progress
16 process and says, bring us that information and we will
17 use that information to determine whether to restore or
18 revoke.
19 I think it goes back to that same question that
20 you had before about the --
21 Q. Let me ask another question.
22 A. -- accessibility of the evidence.
23 Q. Can I ask another question -- Judge, could we,
24 we could probably move this along if we would just get
25 some back and forth a bit without going through long

1 periods.
2 So my question was, that the way it stands right
3 now they don't get an opportunity to respond to your
4 evaluation, to the staff's opinion of what was provided,
5 be it adequate, inadequate, until they get to a board
6 meeting?
7 A. The materials are posted at least 24 hours in
8 advance and they have an opportunity to appear before the
9 Board and say to the Board what they would like.
10 Q. So, they don't have an opportunity to even see
11 what was deficient until 24 hours before the board meeting
12 and during that time you're expecting them to assemble
13 whatever documents that you said that you didn't receive
14 and present it to the Board?
15 A. No. I'm not expecting them to do anything like
16 that.
17 Q. Right. But that's the only way that the school
18 can try to defend itself?
19 A. The entire process is set up for the school to
20 be a defense of itself.
21 Q. But the process didn't work, because if you
22 finish this December the 2nd as reflected on here, the
23 evaluation was completed?
24 A. I'm not sure what you're referring to.
25 Q. I'm going back to 1-F.

1 A. Okay.
2 Q. And at the top of this it says 11/14 evaluation
3 completed 12/2/13, okay. If this was completed
4 December 2nd --
5 A. Okay.
6 Q. -- and the board meeting wasn't until December
7 9th, if this could have been very easily without spending
8 any money, e-mailed to the school then the school would
9 have had an opportunity to provide any of the items that
10 were asked there that weren't requested or weren't
11 questioned at the time that the staff was there; could
12 they have done that during that period of time, 17 days?
13 A. I don't think there's 17 days between
14 December 2nd and December 9th you said?
15 Q. Nineteenth, that was the day of your hearing.
16 ADMINISTRATIVE LAW JUDGE: Ninth.
17 Q. Sorry, December 9th. Seven days then.
18 A. And again, I can't tell you when those materials
19 were posted and available and with respect to your
20 question and I'm trying to answer it.
21 The system is set up so that the staff does the
22 evaluation work. It has been our experience and it has
23 been the Board's determination that when additional
24 evidence is provided at a board meeting they are not the
25 experts and they haven't had an opportunity to review it

1 and they know that the process exists, they don't consider
2 it. And so it hasn't been built in as an opportunity to
3 provide additional information, because the process is
4 done at the conclusion of the 48 hours.
5 Q. So, basically once you submit this the Board
6 figures you've done everything and so that's why they take
7 your suggestion; is that right?
8 A. The Board is provided with options.
9 Q. They're provided with options, but in this
10 particular case you made a recommendation, the
11 recommendation was to revoke, even though you gave an
12 option two, the recommendation was to revoke; is that
13 right?
14 A. That's correct.
15 Q. Okay. So, that's the recommendation that the
16 Board followed, correct? Based on --
17 A. Yes, I think the motion reflects --
18 Q. -- their belief --
19 A. -- that they took the recommendation.
20 Q. -- that you've done all the work?
21 ADMINISTRATIVE LAW JUDGE: One at a time,
22 please.
23 A. I can't speak to the beliefs of the Board.
24 Q. Okay. But your process is such that that's your
25 job and then the Board figures that you've done what you

1 need to do so they'll just pass on the recommendation?
2 MS. ANDERSON: Objection; argumentative and
3 calls for speculation.
4 Q. I'll withdraw it.
5 Now, if I could also go back and have you refer
6 you to our Exhibit ZZ -- without the Top. Is that, well,
7 first of all, there's an e-mail, but is that a five-year
8 review prepared by the staff for Founding Fathers for
9 March 8th of 2012?
10 A. Yes, it is.
11 Q. Okay. And is that part of the normal process of
12 a five-year interval review?
13 A. Yes, it was.
14 Q. Okay. And in this situation the staff members
15 that prepared it was Martha Morgan again and Laura Tucker?
16 A. That is correct.
17 Q. Now, if you review this -- and the purpose of a
18 five-year interval report is just a check and balance to
19 make sure the school is on track and doing what it's
20 supposed to under the charter contract and under the law;
21 is that right?
22 A. In part, yes.
23 Q. Okay. So, in this particular case on this date
24 the review found that -- first of all, you know, the
25 clarification you just said you couldn't remember whether

1 the school was performing, performing plus. In the second
2 box there it specifically says, "2007, performing. 2008,
3 performing plus. 2009, performing plus. 2010,
4 performing." So, does that refresh your recollection a
5 bit?
6 A. Yeah.
7 Q. Okay. And they met the AYP for all the years
8 except 2011. Now, did anybody at the Board ask any
9 questions with respect to 2011 why there wasn't any type
10 of change like that, that the Board could check on?
11 A. Actually, yes, and I think that's reflected on
12 the next page. In the row that is labeled, "Performance
13 Management Plan." As a part of this five-year interval
14 review, and if you look back at the data you can see that
15 in 2009 they were performing in 2000 -- or performing
16 plus, excuse me. In 2010 they were performing, which is a
17 decline from performing plus. And in 2011 they were
18 underperforming, which is a further decline from their
19 past performance. So, there's been a drop in their
20 academic performance for three years.
21 Q. And to assist in that wasn't the school assigned
22 an ASIP?
23 A. The school was assigned a performance management
24 plan.
25 Q. A performance management plan, but more

1 importantly, for our efforts today, on the program of
2 instruction your five-year report shows that the
3 curriculum is aligned with the Arizona standards, and even
4 though the charter representative stated that there's
5 nothing to show that it was not; is that correct, on this
6 report?
7 A. The purpose of this report was not to check
8 evidence at the time. I would be happy to detail for you
9 the process that generated this report.
10 Q. Well, hold on a second. Now, Ms. Morgan
11 wouldn't just create this out of the clear blue and say
12 that the curriculum is aligned with Arizona academic
13 standards?
14 A. Ms. Morgan did not say the curriculum was
15 aligned.
16 Q. That the charter representative said that. And
17 she would not say and relay that without checking
18 something out if she thought that the curriculum was not
19 aligned?
20 MS. ANDERSON: Objection; calls for
21 speculation.
22 A. Again, I would be happy --
23 Q. I'll withdraw it.
24 A. -- to put this report into context.
25 Q. Well, the context is it says what it says. It

1 says the curriculum mapping is in place and was evidenced.
2 Now, it doesn't say representative anything. It just says
3 it was in place and it was evidenced. So, there's
4 evidence that in 2012, a year before you looked at this,
5 there was clearly curriculum in place and a curriculum
6 mapping session, right?
7 A. Okay.
8 Q. Okay. I mean, is that correct?
9 A. That's what it says.
10 Q. Okay. And curriculum resources included the
11 Houghton Mifflin Harcourt for both reading and math, and
12 the other one, the other items there that says. So,
13 that's what was there at the time; is that right?
14 A. That's correct.
15 Q. Okay. And the teacher lesson -- in Item B the
16 teacher lesson plans were reviewed weekly by
17 administration and at the beginning, of course, each
18 school year teachers submit a yearly curriculum plan.
19 Now, that's stated there by Ms. Morgan and there's nothing
20 to refute that; is that right?
21 A. It is stated that that's what the school told
22 them, yes.
23 Q. Okay. And Ms. Morgan wouldn't put something or
24 Ms. Tucker wouldn't put something in there that wasn't
25 factual?

1 A. It is factual that the school stated that, yes.
2 Q. And then the assessment plan is in place,
3 monitoring and documenting occurs with the use of progress
4 charts for all students, data review meetings, and
5 AIMSweb® in number "C." That nobody says that, that's a
6 flat out statement by Ms. Morgan, correct?
7 A. No, that's not correct. And again, I would be
8 happy to put this report in context.
9 Q. I don't want it in context. I want it to say
10 what it says and so that's what it says there. It doesn't
11 say --
12 A. That is what the statement says, that's correct.
13 Q. Okay. And there's no evidence or no comment to
14 say that that wasn't the case?
15 A. No, there's not.
16 Q. Correct. So, they also talked about
17 professional development included instructional delivery
18 methods, autistic sensory processing, poverty awareness,
19 Handwriting Without Tears® training, and teachers are
20 going to attend the Intel Math Conference at NAU.
21 Again, that's not a representation by someone at
22 the school, that's a factual statement, correct?
23 A. No. It is a statement. It is a representation
24 of a statement at the school, yes.
25 Q. It doesn't say anywhere here that the school

1 made that representation. It's just a factual statement
2 by Ms. Morgan?
3 A. That is what it says.
4 Q. Okay. And it clearly says curriculum maps were
5 in place?
6 A. It does.
7 Q. Okay. Clearly says that it was stated that
8 AIMSweb® is used for assessment?
9 A. That's what it says.
10 Q. Okay. And professional development occurs
11 regularly according to charter representative?
12 A. That's what it says.
13 Q. Okay. And that there's teacher evaluations and
14 self-reflection form is also used; is that correct also?
15 A. Yes.
16 Q. So, a year before you went out there all the
17 items that you questioned or said were deficient were
18 illustrated to be in this five-year report, right?
19 A. The items that we said were deficient where?
20 Q. In 2013 before you took it to the Board saying
21 that these items didn't exist out there, they existed in
22 2012?
23 A. That the evidence of their effectiveness and
24 their continued implementation. Things change. I mean,
25 so their performance didn't improve. They had, they've

1 had things in place at this point in time --
2 Q. But they were there.
3 A. -- but their requirements didn't improve.
4 Q. But they were there. There was evidence of them
5 there?
6 A. There was evidence at that point in time of the
7 information that was reviewed existed.
8 Q. Now, that stuff didn't disappear in one year.
9 So, why would you say there was no evidence of a lot of
10 the items that are stated here on 13th?
11 A. I think I have a staff member who is prepared to
12 speak to you specifically about each of those.
13 Q. Okay. So, you have no personal knowledge as to
14 whether they were there or not there, right?
15 A. At what point in time?
16 Q. On the 13th before you, before the report was
17 written, before you submitted recommendation to revoke the
18 school?
19 A. The evidence was available as my staff reviewed
20 it.
21 Q. Okay. And who was the staff member?
22 A. I believe the team at the time that went out was
23 Martha Morgan, Steve Sarmento, and Lisa Weisburg.
24 MR. CONDOS: Okay, no further questions.
25 ADMINISTRATIVE LAW JUDGE: Redirect?

MS. ANDERSON: Yes, thank you.

REDIRECT EXAMINATION

BY MS. ANDERSON:

Q. At the beginning of your Cross-Examination there was a discussion about varying programs that charter schools provide to students and, in fact, the charter school statute does allow for charter schools to offer their curriculum with an emphasis on a certain, on a specific learning philosophy or style or certain subject area such as mathematics, science, fine arts, performance arts, or foreign language, correct?

A. Yes.

Q. There are some charter schools that have arts focus; is that right?

A. Yes.

Q. Some may have a mathematics focus; is that correct?

A. Yes.

Q. Regardless of whatever focus a charter school has it must provide a program of instruction that is aligned to the Arizona Common -- the Arizona College and Career Ready Standards; is that correct?

A. Yes, that is correct.

1 Q. And it must provide a comprehensive program of
2 instruction that improves pupil achievement; is that
3 correct?
4 A. Yes, it is.
5 Q. Do you have any reason to believe as we sit here
6 that the Board members did not review the contents of the
7 portfolio, which is Exhibit 1, that was provided to them
8 December 9th of 2013?
9 MR. CONDOS: Objection; she's already
10 answered that saying she had no knowledge.
11 MS. ANDERSON: I think her testimony was
12 that in response to your question whether she had
13 knowledge whether they did read it, and my question to her
14 is whether she had knowledge that they did not.
15 ADMINISTRATIVE LAW JUDGE: You can answer
16 the question.
17 A. I have no reason to believe that they did not
18 read the documentation included in the portfolio.
19 Q. In the staff report contained in the portfolio
20 for their meeting December 9th of 2013 on page eight the
21 Board is provided with two possible options; is that
22 correct?
23 A. Yes.
24 Q. Under option one the Board may vote to issue a
25 notice of intent to revoke the charter holder's current

contract; is that correct?

A. Yes.

Q. Under option two the Board may vote to restore the charter to acceptable performance; is that correct?

A. Yes.

Q. Is that the only two options that the Board can choose?

A. Yes.

Q. So, the Board couldn't decide we're just not going to take any action today?

A. Statutorily they need to take action.

Q. Are there other ways that or other means by which a school might appear on the Charter Board's agenda for consideration for revocation of its charter other than if it has an "F" -- other than if it has an "F" letter grade?

A. Yes.

Q. I think there was a question asked about isn't the letter "F" grade why we're here today. The letter "F" grade is just one step in the process that the Board takes in determining whether a school should be restored or revoked; is that correct?

MR. CONDOS: Objection, Your Honor; leading. I've allowed quite a bit, but now we're getting into testimony.

1 MS. ANDERSON: Please, rephrase. If she
2 knows, she can testify.
3 Q. Is the simple fact that a school has an "F" in
4 and of itself the mechanism by which the Board determines
5 whether to restore or revoke a charter?
6 A. No.
7 Q. Is there a process that the Charter Board
8 goes -- that the charter school goes through prior to the
9 Board making the determination on "F" school whether to
10 restore or revoke its charter?
11 MR. CONDOS: Objection, Your Honor;
12 relevance. In this case it's the "F" that brought it
13 before. She's already testified to that.
14 MS. ANDERSON: I believe that misstates the
15 testimony.
16 ADMINISTRATIVE LAW JUDGE: You can answer
17 the question.
18 A. The "F" is the trigger. It's a process. The
19 "F" is the trigger, as I stated, that statutorily requires
20 the Board to do something.
21 I think I've also testified to the fact that the
22 framework is the process by which the Board has adopted to
23 determine whether or not to restore or revoke a charter.
24 So, you have the "F" that was a trigger. Then we have the
25 framework that directs us to the dashboard with an overall

1 rating. The overall rating doesn't meet, which then leads
2 to the DSP, or the Demonstration of Sufficient Progress
3 process, and then those items considered in there
4 collectively are what are provided to the Board to make
5 the determination of whether to restore or revoke.
6 Q. Do you know what involvement, if any, the
7 department had with Jefferson Academy as a result of its
8 performing, it's performance under the letter achievement
9 profile?
10 A. No, I don't.
11 Q. In the time since the filing of the notice of
12 the intent to revoke the charter in this case have you or
13 anyone of your staff been provided with any additional
14 documentation from Founding Fathers or Jefferson Academy
15 and asked for you to look at it in this matter?
16 MR. CONDOS: Objection; relevance. That's
17 what this hearing is for.
18 MS. ANDERSON: Your Honor, the relevance is
19 that the statute provides the Board with at least 60 days
20 to correct the problems associated with the problems
21 associated with the problems for the revocation. In that
22 60-day period the school had the opportunity to provide
23 for its staff with evidence that it had corrected the
24 problem and I'm asking her whether they provided that.
25 ADMINISTRATIVE LAW JUDGE: You may answer

1 the question.
2 A. No information was provided.
3 Q. Are there other charter schools with a free and
4 reduced lunch population in excess of 70 percent that have
5 been designated an "A" under the school's achievement
6 profile system -- under the State's achievement profile
7 system?
8 A. Yes.
9 Q. Are there schools that have a free and reduced
10 lunch population in excess of 70 percent that have met the
11 Board's academic performance standards under the Board's
12 dashboard?
13 A. Yes.
14 Q. If you could, please, go back and refer to
15 School Exhibit ZZ on page 390. The table, the row that
16 says, "Performance Management Plan, PMP," and references
17 the assignment of a PMP to Jefferson Academy. What
18 prompted the assignment of a performance management plan
19 to Jefferson Academy in March 8th of 2012?
20 MR. CONDOS: Preliminary question, Your
21 Honor. Well, these time, place, who all was involved? Do
22 you want me to ask preliminary questions; is that fair or
23 maybe Kim can address that?
24 MS. ANDERSON: I think you've already asked
25 her questions about this document.

1 MR. CONDOS: I asked about the document,
2 but we're talking about a little difference with respect
3 to corrective plan and why July 12th, why it was decided
4 to proceed with it.
5 BY MS. ANDERSON:
6 Q. Do you know why a corrective, a corrective
7 action plan in the form of a PMP was assigned to Jefferson
8 Academy on March 8th of 2012?
9 A. Yes.
10 Q. Why was that?
11 A. The corrective action was a plan that was
12 assigned as part of the five-year interval review based
13 upon their academic performance at that time.
14 Q. When you say based on their academic performance
15 at that time what are you talking about?
16 A. The performance would have been based on their,
17 the underperforming profile -- in part, on the
18 underperforming profile for that school year.
19 Q. And what is the purpose of a performance
20 management plan?
21 A. A performance management plan is the initial
22 step in the process that says you're not meeting the
23 Board's expectations at that point in time, you need to
24 tell us what you've been doing, what's working, what's
25 not, and what you intend to do moving forward to correct

1 the situation so that this identification of this
2 underperformance can be quickly corrected and the school
3 can be put back on track.
4 Q. And how long did Founding Fathers have to submit
5 its PMP?
6 A. I believe it was six months.
7 Q. Did board staff conduct a site visit before the
8 PMP was due?
9 A. They did, yes.
10 Q. And what is the purpose of conducting a site
11 visit prior to a performance management plan being done?
12 A. So, the site visit at that point in time -- the
13 performance management plan was a new process being
14 implemented by the Board as it proceeded with its
15 performance expectations criteria. And so, because it was
16 a new process we took the time to go to each school that
17 was assigned a performance management plan to meet with
18 them to talk about where they were or where they thought
19 they were in the processes of what's working and what's
20 not working to provide them an opportunity to think about
21 the types of things that they would include in their
22 performance management plan, have a consideration of
23 whether it's working or what's not, and to think about
24 based upon what they could tell us about what's working or
25 what's not, what might drive their action steps in

1 developing their plan.
2 So, this report as it was earlier referenced and
3 the statements in there are actually capturing the
4 discussion that occurred between the school and my team to
5 say today, you know, you're going to be asked to talk
6 about your curriculum that improved student achievement,
7 your plan for monitoring, where are you in these
8 processes, what have you been doing.
9 And so this reflects where they were at that
10 point in time. This visit occurred three months before
11 the final plan was due. So that there was ample time to
12 put into perspective where they were and where they
13 thought they were going for their submission and why.
14 Q. On March 8th of 2012 at the time that -- well,
15 on March 8th of 2012 was the, was there -- in terms of the
16 Arizona academic standards that required of schools has
17 there been a change since March 8th of 2012 in the
18 academic standards that schools are required to teach
19 their students?
20 A. No. The last standards were adopted in 2010.
21 Q. But in terms of the implementation of those
22 standards has there been a change since March 2012 in the
23 dates of which schools are to require to implement the
24 Arizona College and Career Ready Standards?
25 A. I don't believe so. I think the transition

1 schedule has been set and hasn't been changed.
2 Q. The letter that is contained in Exhibit YY what
3 was it that prompted the submission of this letter to
4 Mr. Stewart?
5 A. The letter was prompted by the site visit that
6 was required in an effort to close out and settle, to
7 close out and make a determination of what the Board's
8 next steps should be with regard to the academic
9 performance of Founding Fathers.
10 Q. And if you refer to page 385 the information
11 contained in box nine, Program of Instruction. In the
12 third paragraph, the third line up -- fourth line up, it
13 states that, "Staff reviewed graphic representations of
14 learning of all students as reflected in their benchmark
15 assessment," excuse me. "Staff reviewed graphic
16 representations of the scores, but could not determine
17 whether students were making consistent gains based on the
18 data provided." Is that correct?
19 A. Yes.
20 Q. And the follow-up requirement in the dark area
21 at the bottom of that box it states: "Board staff will
22 continue to monitor the academic performance of the
23 charter holder using its academic performance framework
24 and intervention schedule." Is that correct?
25 A. Yes.

1 Q. So, under the Board's academic performance
2 framework and intervention schedule as a result of the
3 school having received -- even if the school hadn't
4 received an "F," but had received -- under the academic
5 schedule did the school's failure to meet the Board's
6 academic performance expectations in 2013 would that have
7 still required the school to submit a Demonstration of
8 Sufficient Progress document?
9 MR. CONDOS: Objection; foundation,
10 speculation.
11 ADMINISTRATIVE LAW JUDGE: You can answer
12 the question.
13 A. Yes.
14 Q. And why is that?
15 A. I can direct you to another exhibit to walk you
16 through that. Our framework, Exhibit 2, on page 142, this
17 is the third page of the academic intervention schedule.
18 A solid green represents what I testified to previously,
19 that a school is meeting the Board's expectation having
20 met the dashboard requirements for two consecutive years.
21 A white and green indicates that they have one year of
22 data and the pink means that they don't, they don't
23 currently meet the Board's academic expectations.
24 At the time of the ten-year interval review
25 based on their underperforming label and their academic

1 performance at that point in time Founding Fathers was
2 picked. So, they were required as it states in the box to
3 submit a performance management plan. Through this
4 process then and in the year '11 as we look at them they
5 would have, they would have been required to submit
6 additional information and we conducted the visit and
7 determined that we would continue to monitor them.
8 So, then this year with their letter grade had
9 it been a "D" or an "F" and because they were separate
10 from that based on our own framework, and our criteria,
11 and our intervention schedule and them not meeting the
12 Board's expectations they would have been required to
13 submit additional information for review, which would have
14 ultimately either been determined to continue to monitor
15 or take to the Board for consideration.
16 Q. Would you, please, refer to Board Exhibit 1-F at
17 page 59. In the "Comments" column on the right side under
18 the second paragraph called, "Instruction," at the end of
19 that paragraph you were asked about the statement: "In
20 totality the school demonstrated the beginning stages of a
21 system to monitor and evaluate standards and instructional
22 practices."
23 Is the demonstration of beginning stages of a
24 system to monitor and evaluate standards and instructional
25 practices does that meet the Board's evaluation criteria

1 under its academic performance framework?
2 A. No.
3 Q. Why not?
4 A. Because the beginning stages of a system are not
5 systems that are in place and demonstrated to have been
6 effective. And at that point in time we're talking about
7 the continuation of a school so the expectation is that
8 for the time that they've been in operation, for the
9 amount of time that they have not met the expectations,
10 and for opportunities that they have had to improve by
11 this point in time when the Board determined what an
12 acceptable performance was, it determined that processes
13 that were in beginning stages, processes that aren't
14 complete that don't show evidence of their effectiveness
15 would not meet the requirements.
16 Q. Is the demonstration of sufficient progress
17 process is that a process by which the school is required
18 to demonstrate to the Board that it is making sufficient
19 progress toward the academic performance expectations of
20 the Board?
21 MR. CONDOS: Objection; leading.
22 ADMINISTRATIVE LAW JUDGE: Can you
23 rephrase?
24 Q. The demonstration of sufficient progress what is
25 the purpose of that process?

1 A. The purpose of that process is to provide the
2 school with an opportunity to give the Board the
3 information as it has delineated in its scoring criteria
4 to evidence that it has systems in place evidenced by data
5 that demonstrates that they are effectively making the
6 changes at the school that would support their
7 continuation.
8 Q. And how many opportunities are provided within
9 the contexts of the Demonstration of Sufficient Progress
10 process for the school to do that?
11 A. So, the first step in the process is to provide
12 the narrative and to provide the data to support the
13 narrative. The second --
14 Q. When you say, "the narrative," are you talking
15 about the DSP document?
16 A. Yes, I'm sorry. The DSP document.
17 Then the second opportunity is at the site visit
18 after having been provided a copy of the preliminary or
19 initial evaluation and having been provided a list of the
20 items specifically that the school identified that the
21 staff is going to want to see at the visit so they know in
22 advance that, hey, you talked about these things, we want
23 to see these things. And then additionally, as the letter
24 provides, they have an opportunity based on now the
25 information that they have in the scoring rubric to

1 provide any other information that they think would
2 satisfy the Board's criteria based on the information they
3 now have about the quality or the content that was
4 submitted in the initial evaluation.
5 Their third opportunity then is the 48 hours
6 that occurs after the site visit to submit any additional
7 information that they would like to have considered before
8 the Board makes a decision.
9 Q. Is the charter representative or anyone from the
10 school provided the opportunity at the meeting at which
11 the Board is going to consider whether to restore or
12 revoke the charter, is the charter -- is the school
13 provided an opportunity to attend the meeting?
14 A. Yes.
15 Q. Is the process set up for the school to continue
16 to be able to funnel documents to the Board staff or even
17 at the time of the meeting to the Board for them to
18 continue to make a consideration whether the school has
19 made the demonstration it was required to make?
20 A. No.
21 MR. CONDOS: Objection, Your Honor;
22 leading.
23 ADMINISTRATIVE LAW JUDGE: You can answer
24 the question.
25 A. No.

1 MS. ANDERSON: I have no more questions,
2 Your Honor.
3 ADMINISTRATIVE LAW JUDGE: I have a couple,
4 sorry.
5 THE WITNESS: Okay, sure. No, that's fine.
6
7 EXAMINATION
8
9 BY ADMINISTRATIVE LAW JUDGE:
10 Q. First of all, with what you just said did I
11 understand correctly that prior to the site visit the
12 school is provided with, going to 1-F, that initial, the
13 result after initial evaluation?
14 A. Yes. And that's included in the exhibit, I
15 think it's Exhibit 1-D, the second page there. So, page
16 16 is a letter, an e-mail from Martha Morgan, who again
17 was the Director of Charter Accountability on my team who
18 sent the e-mail to Sandy Stewart that said specifically
19 we're coming on Wednesday, November 20th. You can see in
20 the attachments it says DSP Initial Evaluation, Founding
21 Fathers was attached. And the letter references that I've
22 attached to the initial evaluation of the DSP and then
23 additionally it says, "Please, have the following
24 information identified in the DSP available for review."
25 Q. So, they were notified that, if I flip through

1 correctly, in all of the areas it was not acceptable prior
2 to -- after the initial evaluation everything was not
3 acceptable?
4 A. That is correct.
5 Q. And the site visit was an opportunity to provide
6 additional documentation to change that not acceptable to
7 acceptable?
8 A. That is correct.
9 Q. Okay. You may have clarified this a little more
10 later. You said the "F" grade leads you to the dashboard,
11 but is there a dashboard for every charter school every
12 year?
13 A. Yes.
14 Q. Okay. So, it's not created as a result of the
15 "F" grade and then you go look at it and then analyze
16 whether or not the school is performing?
17 A. That's correct.
18 Q. Okay. Looking specifically at the dashboard,
19 Exhibit 3.
20 A. Mm-hm.
21 Q. I don't believe there were any questions about
22 the growth for the bottom 25 percent and I just want to
23 clarify, is that bottom 25 percent is that the bottom
24 25 percent of the students at the charter school?
25 A. That's correct.

1 Q. And those are compared -- they again, carry with
2 them the percentage growth from the overall. So -- I
3 don't want to confuse the issue. So, the percentage
4 growth they would take with them that would be included
5 with the SGP in 1-A that's the same percentage growth they
6 would take with them before the 1-B calculation?
7 A. That's correct.
8 Q. So, if you had a charter school that was full of
9 excelling students the bottom 25 percent would all be
10 excelling amazingly?
11 A. That's correct.
12 Q. Okay. And then and as far as the DSP, and I
13 think you did clarify this, that is not just a reflection
14 of programs or plans or implementations that have been
15 done since receiving notification, it's supposed to be a
16 longer term. I think you said like with the first "D"
17 grade that's when you start looking at and evaluating and
18 trying to put things into place that will address those
19 concerns?
20 A. Right. So, ideally, a school is in a constant
21 state of improvement just as we all are in our operations,
22 right. But for these schools specifically, yeah. You
23 would -- the thought is that if I'm identified as not
24 meeting the Board's expectations and/or through the state
25 system I'm designated as a "D" knowing that there would be

1 subsequent consequences if I stayed a "D" I would take
2 action.
3 So, the DSP process is designed to say what have
4 you been doing over time, because these are systems that
5 have been created and implemented and if you didn't do
6 anything until you were identified as an "F" and then you
7 adopt a new curriculum, or you started to do new things
8 or, you identified new professional development you
9 wouldn't really know that those things that you chose to
10 do now would have any better impact than any of the things
11 that you chose to do before, because you should have been
12 monitoring and adjusting all of your processes all along
13 to ensure that you were on a positive trajectory.
14 Q. And each school is notified as to not only their
15 state accountability rating, the "A" through "F," but also
16 the overall rating from the Board?
17 A. The overall ratings are made available publicly
18 and to each school. So, at the time that they are
19 developed any school has an opportunity to go ahead and
20 look at what they want to do. Some schools spend more
21 time looking at it than others, depends on what their
22 intentions are.
23 ADMINISTRATIVE LAW JUDGE: Okay. I think
24 that's all I have.
25 THE WITNESS: Thank you.

1 MS. ANDERSON: Thank you.
2 MR. CONDOS: Questions on your questions,
3 Judge?
4 ADMINISTRATIVE LAW JUDGE: Sure. Sorry.
5 MR. CONDOS: Just a few more.
6
7 FURTHER EXAMINATION
8
9 BY MR. CONDOS:
10 Q. When you referred to that BCS16, which was the
11 e-mail that Martha Morgan sent to the school with the list
12 of the items that she wanted to see?
13 A. This was a list of the items that identified to
14 have available for review, yes.
15 Q. Okay. And every one of those items were
16 provided by the school in that one form, three-page form
17 that was prepared by Martha Morgan showing the specific
18 items that were provided to her, right?
19 A. Something was provided, according -- there isn't
20 an empty bullet space -- well, yeah, I would assume that
21 something was provided.
22 Q. And again, nobody informed them that the second
23 batch of provision was deficient in the staff's eyes?
24 MS. ANDERSON: Objection; exceeds the
25 scope.

1 Q. That's okay, I'll withdraw that.
2 Now, you mentioned that if a school first
3 receives a "D" that they would be looking at ways to
4 change it and they wouldn't wait until the last minute to
5 adopt a new curriculum. Founding Fathers had adopted a
6 new curriculum before this year, hadn't they?
7 A. I can't speak to when they actually adopted a
8 curriculum.
9 Q. They didn't want to this last minute just to
10 respond to you, they actually had been moving in steps to
11 try to get, find steps and find means to raise their
12 scores?
13 A. So, then there should be instruction and
14 assessment that would show the effectiveness, that they
15 were evaluating the effectiveness of the curriculum
16 whenever they adopted it.
17 Q. Okay. So, I guess the -- all right. And then
18 one question on what Kim said. She asked you questions
19 about free and reduced lunch getting an "A", some schools
20 getting an "A?"
21 A. Yes.
22 MS. ANDERSON: Objection; Your Honor.
23 These questions are beyond the scope of your questions of
24 the witness.
25 MR. CONDOS: And just clarification on that

1 particular point, Judge.
2 ADMINISTRATIVE LAW JUDGE: I'll allow it.
3 BY MR. CONDOS:
4 Q. The five "F" schools that recently came down
5 were all free and reduced lunch almost 75 percent or
6 higher, right?
7 A. I don't know that that's a true statement.
8 Q. If I gave you Arizona Charter School
9 Association's breakdown and a letter from Eileen Sigmund
10 would that help you refresh your memory that they're all
11 high poverty schools and minorities?
12 A. I don't know that it would refresh my
13 recollection. It would be information that I'd be happy
14 to look at.
15 Q. Okay. And there's another 41 that are in the
16 same position for next year; is that right?
17 A. I believe that there are approximately 40
18 schools that received their second "D," 40 charter schools
19 that received their second "D" this year who, if they
20 don't and haven't engaged in processes to improve their
21 performance and are designated an "F" next year would be
22 subject to this same process.
23 Q. And almost all of these schools are high poverty
24 with free and reduced lunch, high minority, and high
25 special ed?

1 A. I don't know that.
2 MR. CONDOS: No further questions, Your
3 Honor.
4 ADMINISTRATIVE LAW JUDGE: Thank you very
5 much.
6 BY MR. CONDOS:
7 Q. Oh, I do have one.
8 You said that you were in the process of
9 possibly moving forward on the school, but yet, the Board
10 had a meeting on April the 8th of 2013 after they
11 submitted their DSP, I believe. After the letter here on
12 March 19th, after you did your site visit the Board had a
13 meeting on April 8th of 2013. They didn't decide to
14 proceed with any revocation, in fact, all they said was
15 just keep monitoring, right?
16 A. They, in fact, agreed with what we said here,
17 that we would continue to review the monitoring program in
18 accordance with the framework and the intervention
19 schedule as outlined.
20 Q. And aside from the "F" there was no hearing
21 planned for anybody to revoke the charter of Founding
22 Fathers?
23 A. There was a process as I previously testified
24 to.
25 Q. But there was no hearing planned by the Board or

1 you or anybody else?
2 A. No, the Board doesn't plan a hearing until it's
3 actually collected the documentation.
4 Q. Submitted by you?
5 A. Right, following the Board's processes, yes.
6 MR. CONDOS: Okay, I'm done.
7 MS. ANDERSON: Your Honor?
8 ADMINISTRATIVE LAW JUDGE: Yes.
9 MS. ANDERSON: I need to clarify a question
10 on one of your questions.
11 ADMINISTRATIVE LAW JUDGE: Go right ahead.
12
13 FURTHER EXAMINATION
14
15 BY MS. ANDERSON:
16 Q. Her Honor asked you about the dashboard and the
17 availability of the dashboard. The dashboard -- are the
18 dashboards available to schools on a yearly basis?
19 A. Yes.
20 Q. So, last year did Jefferson Academy have access
21 to the information that's contained in Exhibit Three with
22 the exception of the information in the 2013 column?
23 A. Yes.
24 MS. ANDERSON: I have no further questions.
25 MR. CONDOS: Okay.

1 THE WITNESS: Am I really done?
2 ADMINISTRATIVE LAW JUDGE: You're really
3 done. We're going to take a brief recess. We will go off
4 the record at this time.
5 (Recess taken 3:00 p.m. to 3:22 p.m.)
6 ADMINISTRATIVE LAW JUDGE: We are back on
7 record, and your next witness.
8 MS. ANDERSON: The Board calls Steve
9 Sarmento.
10
11 STEVE SARMENTO,
12 called as a witness herein, having been first duly sworn
13 by the Administrative Law Judge to speak the whole truth
14 and nothing but the truth, was examined and testified as
15 follows:
16 THE WITNESS: I do.
17 ADMINISTRATIVE LAW JUDGE: Would you please
18 state your name, spelling it for the record.
19 THE WITNESS: My name is Steve Sarmento,
20 S-T-E-V-E, S-A-R-M-E-N-T-O.
21 ADMINISTRATIVE LAW JUDGE: Please, proceed.
22 DIRECT EXAMINATION
23
24 BY MS. ANDERSON:
25 Q. Mr. Sarmento, where are you currently employed?

A. The Arizona State Board of Charter Schools.

Q. And what is your position there?

A. Program and Project Specialist.

Q. What are your duties as Program and Project Specialist?

A. I work primarily in the area of accountability on the five-year interval reviews of charter schools, the renewal process, and monitoring the academic oversight of schools.

Q. As part of your duties are you charged with monitoring the academic performance of charter schools that are sponsored by the Charter Board?

A. Yes.

Q. What is your educational and professional background and experience?

A. Well, I've been with the State Board for Charter Schools for three years. Prior to that I worked for a national charter management organization. I was a National Curriculum Implementation Specialist. I worked with schools in Arizona, Colorado, and Michigan in implementing and monitoring curriculum. I worked as an Educational Consultant in the state of Arizona, also had some assignments in the state of Texas in monitoring curriculum and doing curriculum alignment work.

I have a bachelor's in English, a master's from

1 George Mason University. I did a post-baccalaureate
2 teacher's certification program through ASU, received my
3 teacher's certification and was a high school English
4 teacher.
5 Q. You mentioned educational consultant what, in
6 connection with that position what is your experience in
7 curriculum implementation and alignment?
8 A. Working with schools with grades K through 12 on
9 curriculum mapping and curriculum alignment projects. So,
10 looking at the resources that schools had to align those
11 to the standards and also coming up with the pacing and
12 monitoring tools for monitoring the implementation of
13 curriculum.
14 Q. And what is your background or experience in
15 creation of professional development content?
16 A. Both as a consultant and as the charter
17 management organization I not only created, but delivered
18 professional development presentations to teachers that
19 are used not only in Arizona, but also nationally in terms
20 of training teachers in the implementation of curriculum,
21 use of assessment, the analysis of data. And also as part
22 of my responsibilities with the charter management
23 organization working with school leaders in the
24 monitoring, the follow-up monitoring of that professional
25 development once the training has been delivered to work

1 with the school leaders to give them, the schools to
2 monitor that what had been taught to teachers was
3 occurring in the classroom.
4 Q. What is your background or experience in the
5 area of student assessments?
6 A. As a consultant and as a, you know, as
7 curriculum specialist for charter management organizations
8 worked on creation of formative assessments and also
9 worked with school leaders in the analysis of data to
10 identify areas where instruction was not resulting in
11 approved student achievement, and work with them in
12 analyzing methods to identify areas where instruction
13 would need to be adjusted.
14 Q. Are you familiar with the charter school
15 Jefferson Academy Advanced Learning?
16 A. Yes.
17 Q. And how are you familiar with that school?
18 A. That school was designated as an "F" school by
19 the Arizona Department of Education and had overall rating
20 on the Board's academic framework of does not meet, and as
21 a result was assigned a Demonstration of Sufficient
22 Progress, as part of a team that evaluated that
23 Demonstration of Sufficient Progress documentation and was
24 also a member of the team that conducted the site visit.
25 Q. Could you please refer to the Board's Exhibit 1

1 at Tab C. It's a letter dated September 12, 2013 to Sandy
2 Stewart.
3 A. Okay.
4 Q. Specifically page 14 of this exhibit. The date
5 at the bottom of the page in bold in the last sentence is
6 the date of November 12, 2013. What is the significance
7 of that date?
8 A. That date was the due date or deadline date for
9 the submission of the Demonstration of Sufficient Progress
10 document.
11 Q. And as reflected on the first page of this, the
12 first paragraph of this page was Founding Fathers directed
13 to the Board's academic framework and guidance document
14 for a description of the requirements of the Demonstration
15 of Sufficient Progress?
16 A. Yes.
17 Q. Actually, I think it's probably more accurate if
18 I said the second paragraph was to refer to the guidelines
19 in preparing the DSP document.
20 A. The --
21 Q. Is that correct?
22 A. Yes. The criteria used to evaluate is in the
23 section of the second paragraph.
24 Q. I guess I should take a second so I'm not paying
25 attention to what I said. It's that time of the day

1 apparently.
2 The first paragraph talks about the requirement
3 to submit a Demonstration of Sufficient Progress and
4 references Appendix D of the academic framework and
5 guidance document; is that correct?
6 A. Yes.
7 Q. The second paragraph references the guidelines
8 for preparing the Demonstration of Sufficient Progress and
9 the criteria used to evaluate the demonstration documents;
10 is that correct?
11 A. Yes.
12 Q. Prior to the date by which it was required to
13 submit its DSP document was Founding Fathers Academy
14 advised of the process following its submission of the DSP
15 document?
16 A. Yes.
17 Q. And if you would refer to Exhibit 1-D at page
18 15, letter to Mr. Stewart dated October 17, 2013. In the
19 second paragraph of this letter the second sentence,
20 "Advised that Board staff will do an initial evaluation of
21 the submitted materials, provide the evaluation to the
22 charter representative in an e-mail, and then conduct a
23 site visit to the school to confirm information included
24 in the submitted DSP, as well as for areas not deemed
25 acceptable in the initial evaluation, provide an

1 opportunity for the charter holder to submit additional
2 documentation that demonstrates that the school is making
3 sufficient progress toward meeting the Board's academic
4 expectations."
5 A. Yes.
6 Q. What is the process by which the charter holder
7 is provided with the opportunity to submit additional
8 evidence that demonstrates the school is making sufficient
9 progress toward meeting the Board's academic expectations
10 as referenced in this letter?
11 A. The site visit, as stated in the letter, at the
12 site visit they have that opportunity to provide to the
13 Board staff team conducting the visit documentation there
14 at the site and also within, there's a 48-hour window
15 after the site visit for anything that was not either
16 available at that time or anything else they have after
17 the site visit they have 48 hours thereafter to submit any
18 additional documentation or evidence.
19 Q. And as reflected in the third paragraph on this
20 page the site visit was to occur on November 20th, 2013;
21 is that correct?
22 A. Yes.
23 Q. Did Founding Fathers Academy submit its DSP
24 document to the Charter Board by the due date of November
25 12, 2013?

1 A. Yes.
2 Q. And was an initial evaluation conducted of that
3 DSP document?
4 A. Yes.
5 Q. Why is it called an initial evaluation?
6 A. The initial evaluation is the evaluation that's
7 done based on the document that is submitted and then a
8 final evaluation is done which includes any of that
9 additional documentation or evidence that the charter
10 holder may submit at the site visit or within that 48-hour
11 window or other information that the, that is provided at
12 the site visit to be included in the final evaluation.
13 Q. If you would refer to Tab E of this Exhibit 1,
14 is Founding Fathers DSP document on which the initial
15 evaluation was conducted what is contained here in
16 Exhibit 1-E?
17 A. Yes.
18 Q. And was the initial evaluation of the DSP
19 document conducted in accordance with the evaluation
20 criteria stated in the Board's academic framework?
21 A. Yes.
22 Q. What were the results of Founding Fathers'
23 initial evaluation?
24 A. May I refer to the exhibit?
25 Q. If you would refer to Exhibit 1-F.

1 THE REPORTER: I would ask the witness to
2 speak a little louder for me, please.
3 A. Sure, I can do that.
4 The final or the results of the evaluation were
5 that the DSP was evaluated as not acceptable in all the
6 measures.
7 Q. And what does not acceptable in all the measures
8 mean in terms of whether Founding Fathers' DSP document
9 demonstrated sufficient progress toward the Board's
10 academic performance expectations?
11 A. For a given measure that the charter holder is
12 required to respond to based on the dashboard it's
13 evaluated in five areas: Curriculum, instruction,
14 assessment -- let me turn the page -- professional
15 development, and data.
16 Based on the evaluation in those areas using the
17 evaluation criteria the determination is made that those
18 areas do not meet and is not acceptable.
19 Q. Would you, please, refer to 1-D at page 16. As
20 indicated by the bullets at the bottom of the page was
21 Founding Fathers also requested to have particular
22 information that it had identified in its DSP available
23 for review at the time of the site visit?
24 A. Yes.
25 Q. And what is the significance of requesting

1 Founding Fathers or any charter school to have information
2 identified in the DSP available for review at the site
3 visit?
4 A. The information described in the DSP provides a
5 narrative, is asked to be made available so that we can
6 verify that what's described in the narrative that's
7 submitted is actually in place. It's a verification of
8 what is described to confirm that it is in place at the
9 school.
10 Q. And was the site visit then conducted at
11 Jefferson Academy in November 20, 2013?
12 A. Yes.
13 Q. And who was present at the site visit?
14 A. Board staff that were part of the team assigned
15 to this Demonstration of Sufficient Progress and
16 representatives -- and school leadership and
17 representatives from the charter holder that were selected
18 by the charter holder.
19 Q. And were you one of the staff assigned to the
20 team?
21 A. Yes.
22 Q. At the site visit did Founding Fathers provide
23 additional documentation related to their Demonstration of
24 Sufficient Progress document?
25 A. Yes.

1 Q. And within 48 hours following the site visit did
2 Founding Fathers also provide information, additional
3 information related to the DSP?
4 A. Yes.
5 Q. After having considered the site visit and the
6 additional documentation that you said was provided at the
7 site visit and within the 48 hours following the site
8 visit was a final evaluation conducted of Founding Fathers
9 Demonstration of Sufficient Progress toward the Board's
10 academic performance expectations?
11 A. Yes.
12 Q. And was the final evaluation of Founding
13 Father's Demonstration of Sufficient Progress conducted in
14 accordance with the evaluation criteria stated in the
15 Board's academic performance framework?
16 A. Yes.
17 Q. Would you, please, refer to Exhibit 2-F.
18 ADMINISTRATIVE LAW JUDGE: 1-F?
19 A. 1-F.
20 Q. I'm sorry, 1-F, you're right. Thank you.
21 Does Exhibit 1-F contain the results of the
22 initial and the final evaluations of Founding Father's
23 Demonstration of Sufficient Progress towards the Board's
24 academic performance expectation?
25 A. Yes.

Q. And how were the results of the initial evaluation and final evaluation distinguished?

A. Okay. On the first page here in the upper right-hand corner we see evaluation completed and there's a date of November 14th, that is the initial, the date of the initial evaluation. The second date is the date of the final evaluation. In the comment section any of the unbold comments are comments that were provided as part of the initial evaluation. The comments in bold are comments that were provided after the site visit and after reviewing the additional documentation that was provided at the site visit or within the 48-hour period.

In the table there's two columns: One acceptable, one not acceptable. There are letters in there. An "I" is representative of what the evaluation was for the initial evaluation. An "S" is the letter that's provided to indicate the evaluation after information is collected from the site visit.

Q. So, if we refer back to Exhibit 1-D on page 16, the third paragraph it states, "I have attached the initial evaluation of the DSP." Would the initial evaluation information that is contained in Exhibit 1-F be the same evaluation instrument, but only containing those comments that are not in bold?

A. Yes.

1 Q. So, is the same evaluation instrument then is
2 used for the review of the initial evaluation as well as
3 the subsequent, the final evaluation?
4 A. Yes.
5 Q. How are the findings and the comments on the
6 evaluation instrument that's Exhibit 1-F how are they
7 broken down?
8 A. The comments are broken down based on the
9 categories that are used, they're listed in the evaluation
10 criteria. So, there is a curriculum, instruction,
11 assessment, professional development, and data.
12 Q. And are those four categories referenced for
13 each of the corresponding dashboard measures in which the
14 charter -- in which Founding Fathers in this case either
15 did not meet the standards, or fell far below, or received
16 a no rate or an NR?
17 A. Yes.
18 Q. What was the initial evaluation of Founding
19 Father's DSP document with regard to the category of
20 curriculum?
21 A. For curriculum the initial evaluation that the
22 narrative describes a fragmented approach that the school
23 uses to create, implement, evaluate, or revise school
24 curriculum. The narrative and data provided did not
25 demonstrate that the school implemented a curriculum that

1 contributed to increase student growth and proficiency in
2 math, reading. I believe this comment applies to all the
3 measures, proficiency and growth in the areas of math and
4 reading.
5 Q. Even though it says here on page --
6 A. Here it says student growth in math.
7 Q. So, those comments are with regard to the
8 category of curriculum and for the particular measures
9 indicated on the left, student median growth percentile,
10 SGP math; is that correct?
11 A. Yes.
12 Q. And then for student median growth percentile in
13 reading those same comments are repeated for that measure
14 on page 60; is that correct?
15 A. Yes.
16 Q. As well as throughout each of the measures that
17 are on the dashboard that Founding Fathers would be
18 required to address?
19 A. Yes.
20 Q. And on what were those comments based?
21 A. Those comments were based on the narrative
22 provided in the DSP that was submitted.
23 Q. But the comments that, you know, what
24 particular -- what particularly in the DSP led to your
25 comment that it described a fragmented approach that the

1 school uses to create, implement, evaluation, revise
2 school curriculum?
3 A. Well, it was described in the DSP was basically
4 a one-time opportunity to do something. It did not
5 describe an ongoing system.
6 On page 21, Board's Exhibit 21 there's a
7 description of math curriculum and this describes
8 something that was done at one point in time. There is no
9 described system or ongoing process for the evaluation or
10 revision of curriculum, and for reading there's no
11 description of a system for evaluating or revising that
12 curriculum.
13 Q. And if you could just refer back to Exhibit 1-D
14 at page 16. In the eighth bullet down at the bottom of
15 the page Founding Fathers was requested to have available
16 for review at the time of the site visit yearly lesson
17 plans aligned to Arizona's College and Career Ready
18 Standards. What are yearly lesson plans?
19 A. Yearly lesson plans are lesson plans that
20 provide for the year description of what standards are to
21 be addressed and description of the instruction to address
22 those standards.
23 Q. Okay. Standards meaning what is going to be
24 taught to the students in a particular subject throughout
25 the whole year?

A. Yes.

Q. What are the Arizona College and Career Ready Standards?

A. Those are standards that were adopted by the State Board of Education to describe what students are to be able to know and do for a particular grade level in a particular content area, such as reading or math.

Q. And are Arizona public schools required to teach the Arizona College and Career Ready Standards that were adopted by The Board of Education?

A. Yes.

Q. What was the status of academic standards prior to the State Board of Education's adoption of the Arizona College and Career Ready Standards?

A. There was a previous set of standards those were the Arizona Academic Standards.

Q. What's the difference between the previous Arizona Academic Standards and the Arizona College and Career Ready Standards?

A. The Arizona College and Career Ready Standards are more rigor. They are designed to ensure that when students graduate that they are prepared to enroll in credit-bearing courses, introductory courses, not remedial courses, but credit-bearing courses and/or that they are prepared to enter the workforce.

Q. Were Arizona school districts and charter schools required to implement the Arizona College and Career Ready Standards on prescribed timeline?

A. Yes.

Q. For certain subjects?

A. For reading and math.

Q. Could you please refer to Board Exhibit 10. Does Exhibit 10 prescribe the implementation schedule for Arizona College and Career Ready Standards in mathematics -- well, English language arts and literacy and mathematics?

A. Yes.

Q. And by English language arts and literacy are we talking reading?

A. Yes, that would include reading.

Q. Were there grades for which full implementation of the reading or the English language arts and literacy Arizona College and Career Ready Standards were required in school year 2012-2013?

A. Yes. For 2012-2013 that was kindergarten through ninth grade full implementation and then described targeted implementation for grades 10 through 12.

Q. And if you refer to page 501 the mathematics were the grades for which full implementation of the mathematics Arizona College and Career Ready Standards

1 were required in school year 2012-2013?
2 A. Yes.
3 Q. Was full implementation of the College and
4 Career Ready Standards across the board required in school
5 year 2013-2014 for all grade levels in both English
6 language arts and literacy and mathematics?
7 A. Yes.
8 Q. At the site visit did school personnel have
9 lesson plans available for your review?
10 A. Yes.
11 Q. For what grade levels?
12 A. For grades K through five.
13 Q. Okay. When you say "K" which is --
14 A. Kindergarten. "K" represents kindergarten.
15 Q. Would you, please, refer to Exhibit 6. What is
16 contained in Exhibit 6?
17 A. 6-A contains the yearly lesson plans for the
18 combined second/third grade room in the subject area of
19 math; 6-B contains the yearly lesson plans for that
20 combined second/third grade class for the subject of
21 reading; 6-C contains the yearly lesson plans for that
22 combined second/third grade classroom for the subject area
23 of writing and language arts.
24 Q. Okay. What is the source of the documents
25 contained in Exhibit 6?

A. These were provided to us by Founding Fathers.

Q. When?

A. At the site visit.

Q. Would you please refer to Exhibit 7. What is contained in Exhibit 7?

A. 7-A contains the lesson plans for kindergarten beginning August 5th and continuing through the week of November 15th; 7-B would be the weekly lesson plan for the second and third grade for the week of November 18th; and 7-C contains the weekly lesson plan for November 18th for the combined fourth/fifth grade classroom.

Q. And what is the source of the documents contained in Exhibit 7?

A. These were provided to us by Founding Fathers at the site visit.

Q. What is the significance of yearly and weekly lesson plans to teaching the Arizona College and Career Ready Standards?

A. Well, a yearly plan would define or ensure that all of the grade level standards for that grade are addressed within that school year. So, a plan to ensure that everything that's required is covered within the year.

The weekly lesson plans provide more detail for that specific week, which would be aligned to that yearly

1 plan so that within this week we can ensure that we're
2 getting the standards that were required to teach
3 according to our plan, the yearly plan. The weekly lesson
4 plan provides more detail about the actual classroom
5 instruction.
6 Q. What is the classroom configuration at Jefferson
7 Academy?
8 A. The classrooms have multiple grade levels in
9 them. As I stated, the second and third grade is a
10 combined classroom, that's a classroom that then includes
11 students that are both in second grade and third grade.
12 Q. Can you please refer to Exhibit 5. What is
13 contained in Exhibit 5?
14 A. Exhibit 5 was provided to us at the site visit
15 by Founding Fathers during our site visit. It was
16 provided as a representation that each classroom had a
17 schedule of when specific content areas were to be taught
18 to ensure that everybody was teaching reading at the same
19 time that math was taught.
20 These were provided to us and as you can see on
21 page 157 we have this is a kindergarten and first grade
22 classroom and then a list of the schedule for the day. On
23 page 158 we have a combined first and second grade
24 classroom with the descriptions of different parts of the
25 day, it continued on to page 159. And 160 we have a

1 second and third grade combined classroom. In looking
2 through this noted that, the fifth item says, "Large group
3 math, third grade math standards." Then two lines below
4 that, "Teach Your Children Well Reading Groups." So,
5 again, the course of the day, but nothing to indicate when
6 second grade math would be taught in this classroom.
7 On Page 161 we have the third and fourth grade
8 classroom and listed the courses in the day. And then 162
9 is the fourth and fifth grade combined class with their
10 list for their schedule for the day. And then 163 middle
11 school routine for their day, which includes one item and
12 had a time for lunch.
13 Q. So, in part, Exhibit 5 reflects the
14 multigrade -- combined grades at the school; is that
15 correct?
16 A. Yes.
17 Q. Okay. If you refer to Exhibit 6-B, which you
18 previously testified were yearly lesson plans for combined
19 second/third grade. At the top of the page it references,
20 "Teach Your Children To Read Well." Is this the Core
21 reading program that Founding Fathers stated in its DSP
22 document that implemented at Jefferson Academy?
23 A. Yes.
24 Q. And did you review the yearly lesson plans for
25 second/third grade reading that are contained in this

1 exhibit for their consistency with the weekly lesson plans
2 for same grade and subject --
3 A. Yes.
4 Q. -- that are in Exhibit 7-B?
5 A. Yes.
6 Q. And what did you find?
7 A. In Exhibit 6-B on Page 179 the top row there
8 indicates a date of November 18th and the first four
9 entries are the description of those instruction. The
10 last entry at the end of that row identified specific
11 standards and that's indicated by the code there, RI.3.5
12 and RI.2.5. So, those are the codes for standards.
13 So, I would look to now 7-B, page 252. I have
14 the second and third grade lesson plans for that week, but
15 in looking at the information contained here I begin
16 looking for standards. Let's see in memory I have a
17 standard that doesn't match on Monday or Tuesday, and I
18 work my way through this document I do not find either of
19 the standards that were indicated here on the yearly plan
20 present in the weekly plan. Additionally, any weekly plan
21 no standards were identified for second grade.
22 Q. So, what is the significance of these findings?
23 A. Well, if a yearly plan is designed to plan out
24 the curriculum so that all their required standards are
25 taught within that school year if I have a weekly plan

that doesn't align with that I have, I don't have a plan in place, because I've now strayed from that plan. There's nothing to indicate that this grade level is based on these weekly plans is going to get to all of the grade level standards required by the end of the year, because it's not consistent with this plan. And in looking at the standards that were identified in here they may occur at other times, but they're not on track with their plan. There's no consistency.

Q. If you could please refer to Exhibit 9-B. What is contained in Exhibit 9-B?

A. 9-B is the Arizona College and Career Ready Standards for English language arts for kindergarten through sixth grade.

Q. And does this document reflect the Arizona College and Career Ready Standards that you testified were adopted by the State Board of Education?

A. Yes.

Q. And was that adoption in June of 2010?

A. Yes.

Q. Are the standards, these standards as well as the standards for all grade levels for English language arts and math are they published by the Arizona Department of Education?

A. Yes.

1 Q. And are they available on the website of the
2 Arizona Board of Education?
3 A. Yes.
4 Q. Can you please refer to Exhibit 9 and identify
5 what is contained in Exhibit 9-E?
6 A. 9-E contains the Arizona College and Career
7 Ready Standards for English language arts for third
8 through fifth grade.
9 Q. And if you kind of hold your finger on those two
10 documents and you go back to Exhibit 6-B. Did you review
11 the yearly lesson plans contained in Exhibit 6-B for
12 second/third grade reading for their teaching of the
13 Arizona College and Career Ready Standards for second and
14 third grade that are contained in Exhibits 9-B and 9-E
15 that you just identified?
16 A. Yes.
17 Q. And what did you find?
18 A. I found that there was no alignment between the
19 identified standards and what is described with these
20 instructional activities that are described here.
21 So, in Exhibit 9-B the second grade standards on
22 page, Board Exhibit page 314 we are in the Arizona College
23 and Career Ready Standards for English language arts
24 kindergarten through second grade. This page is the
25 reading standard for informational text. There's three

1 columns: The leftmost column is for kindergarten; the
2 center column is for grade one students; and the
3 right-hand column is second grade students. In that
4 right-hand column we have nine items, those are our
5 standards. Go to the fifth standard you'll see at the end
6 of the description in bold that code 2.RI.5. That
7 indicates the second grade reading informational text
8 standard, standard number five. And the description here
9 states: "That students should know and use various text
10 features, E.G., actions, bold print, subheadings,
11 glossaries, indexes, electronic menus, icons, to locate
12 key facts or information in a text efficiently."
13 I flip back to Board's Exhibit 6-B, page 179. I
14 will see that that is the standard that is indicated in
15 the rightmost furthest right entry for the week of
16 November 18th.
17 MS. STILLMAN: I'm sorry, could you tell me
18 the page number that you're on?
19 A. 179.
20 MS. STILLMAN: Thank you.
21 A. You'll see that you have two standards and one
22 of them is reading informational text for second grade,
23 five. And in Exhibit 9-E, page 415, we are in the Arizona
24 College and Career Ready Standards for English language
25 arts, third through fifth grade. Page 415 --

1 MS. STILLMAN: Thank you.
2 A. -- is the reading standards for informational
3 text, third through fifth grade.
4 Again, we have three columns. The first column
5 is third grade. We go down we see the fifth standard, we
6 see that description of the standard and that code 3.RI.5
7 and that's similar to the standard that's -- that is the
8 standard that is indicated on page 179. And then 415 you
9 can read that standard, it says that: "Students will use
10 text features and search tools, E.G., keywords, sidebars,
11 hyperlinks to locate information relevant to a given topic
12 efficiently."
13 Now, between those two there is a slight
14 difference. At second grade they are to -- this is on
15 page 314, just flip back and forth.
16 MS. STILLMAN: I've got them both marked
17 now.
18 A. Okay. So, second grade students have to know
19 and use various text features and third grade they are
20 using text features and search tools. In second grade
21 they are using those text features to locate key facts or
22 information in a text efficiently, whereas, in third grade
23 the rigor increases to locating information that's
24 relevant to a given topic. Whereas in second grade
25 they're just locating facts, by third grade they have to

1 locate information and specifically information that's
2 relevant to a given topic. So, you can see the increase
3 in rigor as we move from second grade to third grade.
4 They're related skill, but more complexity as we increase
5 the grade level.
6 In looking at our weekly lesson plan on page 179
7 I'm looking for something related to informational text.
8 I should clarify, informational text is different from
9 literature. Informational text would be text that a
10 student is reading to gain information as opposed to
11 reading literature, which would be to read a story for
12 pleasure. So, there's informational text and as we see in
13 these standards a scale related to finding information in
14 informational text.
15 When I see in the weekly standard is practicing
16 irregular words -- this is week November 18th, week three
17 on page 179 -- "Tommy Tales," "Tommy and the Giant
18 Cockroach," "Sarah Plain and Tall," which is a novel
19 that's commonly read in elementary schools. Moving down
20 to the next day they're saying underlined words and
21 reading the words, they're reading "Tommy Tales," "Tommy
22 and the Giant Cockroach," still reading "Sarah Plain and
23 Tall." Next day they're sounding out words, "Tommy
24 Tales," "Tommy and the Giant Cockroach," "Sarah Plain and
25 Tall". And then in the fourth day, irregular words, Tommy

1 Tales," "Tommy and the Giant Cockroach," and "Sarah Plain
2 and Tall."
3 So, nothing to indicate, there's no alignment
4 here between the requirement of students using the text
5 features and search tools to locate information and then
6 informational text and these descriptions here, which are
7 of students engaging with literature and practicing saying
8 words.
9 Q. Are "Tommy Tales," "Tommy and the Giant
10 Cockroach," "Sarah Plain and Tall," informational text
11 works?
12 A. No.
13 Q. What is the significance of the activity
14 identified for the week of November 18th for second and
15 third grade on page 179 not corresponding to the Arizona
16 College and Career Ready Standards you identified in the
17 lesson plan?
18 A. Well, the yearly plan has identified specific
19 standards to be taught during specific weeks to begin to
20 ensure that all those required standards are taught, but
21 now this revealed that even this yearly plan is not
22 aligned, that if this plan is followed students are not
23 receiving instruction to master the standards as
24 identified in the yearly plan. So, there's no alignment.
25 So, this plan does not, is not an effective plan for

1 ensuring that students are going to be mastering the
2 required standards.
3 Q. Are these findings that you just discussed did
4 you make similar findings throughout the remainder of the
5 lesson plans?
6 A. Yes.
7 Q. Is student comprehension of informational text
8 was that identified by Founding Fathers in its
9 Demonstration of Sufficient Progress document as a
10 school-wide weakness?
11 A. Yes.
12 Q. Do the weekly lesson plans that are contained in
13 Exhibit 7-B identify -- given that you stated it was a
14 second/third grade lesson plan -- did it identify any
15 second grade, that any second grade standards are being
16 taught in the second/third grade combined classroom?
17 A. No.
18 Q. What's the significance of that?
19 A. During this week the students in the second
20 grade are not receiving instruction in the skills that
21 they are required to be learning in second grade students.
22 So, there's -- the instruction is not aligned to the
23 requirements for second grade.
24 And we saw when I compared the two standards
25 there's a difference between the scales that second

1 graders are required to learn in that specific standard
2 than what a third grader would need to do.
3 Q. Are there any other second/third grade reading
4 plans that were provided to you from the school?
5 A. Other than what's contained in this exhibit, no.
6 Q. Would you, please, refer to Exhibit 6-A.
7 A. Okay.
8 Q. Was it your previous testimony that 6-A contains
9 the yearly lesson plans for second/third grade at
10 Jefferson Academy in the subject of math?
11 A. Yes.
12 Q. And did you review the yearly lesson plans
13 contained in Exhibit 6-A for their consistency with weekly
14 lesson plans for the second/third grade math that are
15 contained in Exhibit 7-B?
16 A. Yes.
17 Q. What did you find?
18 A. I found they're not aligned. That 168, the
19 weekly plan for November 18th indicates that, there's
20 descriptors of the lesson. These numbers, the numbering
21 system, 6-8; multiplying and defining combinations, 6-9;
22 multiple step problems and additional Topic 6; and then
23 moving on to 7-1, division of sharing.
24 When looking at the weekly plan provided for
25 November 18th on page 252, found that in that Monday,

1 November 18th they were doing addition, Topic 2-9. On
2 Tuesday the Topic 2, assessment test. And on 254 that
3 continues, Topic 3.1, Topic 3.2. So, those topics are not
4 the same. This weekly plan would indicate that they
5 should be in Topic 7 and here we are in November and they
6 are just completing Topic 2, so they are behind their
7 plan.
8 Q. And what is the significance of them being
9 behind in their plan?
10 A. Well, the plan is -- the plan is designed to get
11 them through the required content within that school year.
12 If they are behind they will not teach all of the required
13 standards for that grade level by the end of the, by the
14 completion of the school year. So, students will be left
15 without instruction in standards that they are required to
16 learn for that grade level.
17 Q. Would you please refer to Exhibit 7-A, which
18 identified were weekly lesson plans for kindergarten.
19 A. Yes.
20 Q. The date in the upper left corner, the date of
21 August 5, 2013 on Page 193. So, August 5, 2013 is the
22 first day of instruction at Jefferson Academy?
23 A. Yes.
24 Q. Does Exhibit 7-A identify that kindergarten
25 Arizona College and Career Ready Standards are being

1 taught at Jefferson Academy?
2 A. In looking through these weekly lesson plans
3 starting on August 5th I did not, I do not find Arizona
4 College and Career Ready Standards for kindergarten
5 present until September 30th. Page 221 is the first and
6 the standard is located, it is in the left column under
7 September 30th there's calendar, word of the day, memory
8 work, then kinder circle, timed activities, and then you
9 see the code for a standard KRI-10 and then below that is
10 language arts and we see some standard there.
11 Q. With regard to the kindergarten Arizona College
12 and Career Ready Standards identified as KRI-10 what is
13 the standard being taught by KRI-10?
14 A. In Board's Exhibit 9-A we have the Arizona
15 College and Career Ready Standards for mathematics for
16 grade kindergarten -- I'm sorry, Board's Exhibit 9-B,
17 English language arts, kindergarten. And page 315 we're
18 in the Arizona Reading Standard, Arizona College and
19 Career Ready Standards for English language arts,
20 informational text kindergarten through second grade. The
21 leftmost column kindergarten and we see standard 10, we
22 see that code KRI-10 and the standard states: "Students
23 actively engage in group reading activities with purpose
24 and understanding, actively engage in group reading of
25 informational and functional texts, including history,

1 social studies, science, and technical texts with purpose
2 and understanding."
3 Q. Do the kindergarten activities for the week of
4 September 30, 2013 on page 221 demonstrate where it
5 identifies standard KRI-10 does it, does that lesson plan,
6 the activities demonstrate the standards that you just
7 identified on page 315?
8 A. The lesson activities do not align with -- that
9 lesson activity includes writing about a book, modeling
10 capital and lower case placement, and introducing the
11 number word one when written as a word on Monday. On
12 Tuesday they write about it, they model question marks,
13 introduce the number word two when written as a word.
14 Wednesday they write about it, model exclamation points,
15 introduce the number word three when written as a word.
16 And then Thursday they write about it, review periods,
17 introduce the number word four when written as a word, and
18 practice all the letter words learned this week. And
19 nothing that says actively engaging in group reading
20 activities with purpose and understanding, engaging in
21 group reading of informational and functional text,
22 including history, social studies, science, and technical
23 text with purpose and understanding.
24 Q. With regard to the kindergarten lesson plans
25 contained in this Exhibit 7-A for the remainder of the

1 school year that's contained in Exhibit 7-A do the
2 kindergarten activities identified in the lesson plans for
3 the remainder of the year identify or do those activities
4 in the lesson plans align to the Arizona College and
5 Career Ready Standards that it identifies for those
6 activities?
7 A. Not consistently, no.
8 Q. Would you please refer to Exhibit 1-E, Founding
9 Fathers' DSP document on page 21. The fourth paragraph
10 down it states: "Our math curriculum we purchased is
11 Envision," and I'll spell it E-N-V-I-S-I-O-N, "Math along
12 with its intervention component Focus Math." Could you,
13 please, refer back again to Exhibit 7-A, which were those
14 weekly kindergarten lesson plans. Did you evaluate
15 Exhibit 7-A with regard to the implementation of the
16 Envision Math curriculum?
17 A. Yes.
18 Q. And what did you find?
19 A. I found that Envision Math was not listed in the
20 weekly lesson plans until the week of September 9th, that
21 week starts on page 209, but the math component is on page
22 211. And it's not listed as the math section of the
23 lesson plan. It is listed in Mrs. Duncan's lab. So, on
24 page 211 starting at the bottom there's Safari lab, then
25 Mrs. Duncan's lab we see Envision Math on Monday, Tuesday,

1 Wednesday, Thursday. That continues for a short period of
2 time and then stops appearing in Mrs. Duncan's lab or
3 anywhere else in the lesson plans.
4 Also, there are references in the math
5 instruction to the Harcourt Math Series. So, a different
6 core that was -- that is used for their -- an example of
7 that is on page 215, a page that's a little bit illegible.
8 We can still see on the third row up Mrs. Duncan's lab
9 Envision Math, but at the top of the page -- we need to
10 get the header from the previous page, page 214 -- Math
11 Circle time. We see Monday, work on recognition. Then
12 16, 17, 18, count objects and that they're using a
13 Harcourt book, page 147 to 148 for the math. So, they're
14 not implementing the adopted Envision Math program as
15 their core instruction as being used in this lab.
16 As I said, that use in the lab stops on the week
17 of October 21st. That week begins on page 229, but I
18 don't get to Mrs. Duncan's lab until 231. And I see now
19 it's just handwriting. It says, "Math," but there's no
20 indication that's Envision Math as previously stated.
21 They have also indicated they're using Harcourt Math. So,
22 it's not clear if they're using Envision Math,
23 specifically when the prior listing indicates it's
24 Envision Math.
25 (Interruption by Reporter.)

A. Harcourt, H-A-R-C-O-U-R-T.

Q. And if you'd refer to page 248, your reference in the second row, second and third columns to Math Circle Two, the Harcourt math book and then particular page numbers. Is the Harcourt math the math that the math curriculum that Jefferson Academy had prior to its purchase of Envision Math?

A. Yes.

Q. So, I mean, what is the significance of what you testified as to your findings with regard to the math program in kindergarten?

A. Well, the DSP stated that they had, they had selected something to address some areas. They are not implementing it. They're implementing something they had prior. So, there's no consistent curriculum implementation plan in place. So, there's the old resource, the new lead up resource is not used consistently and they stated in the DSP they had selected Envision for some specific reasons, but they were clearly not implementing that. So, again, no systematic curriculum implementation at the school.

Q. Would you please refer to Exhibit 7-C, the handwritten reference at the top of the page on page 256, Torrez, with a date of 11-18/13. Is Torrez the teacher for the combined fourth/fifth grade at Jefferson Academy?

1 A. Yes.
2 Q. And what was Exhibit 7-C identified to you as
3 when it was provided to you from the school?
4 A. This was identified as the weekly lesson plan
5 for this classroom for the week of November 18th.
6 Q. And if you'd, please, refer to page 258 of this
7 exhibit at the bottom of the page in the row identified
8 as, "Read aloud." It identifies the book as, "The Giver,"
9 by Lois Lawry and various activities based on the book
10 "The Giver." Then it also after the identification of
11 "The Giver" it identifies various Arizona College and
12 Career Ready Standards that begin with the letter RI.
13 What are those standards?
14 A. Those are standards that are in the category of
15 reading informational text, similar to those that we
16 identified for second and third grade. Reading
17 informational text standards are preceded by an RI
18 indicator. "The Giver" is a literature selection so we
19 have again identified that we will be teaching standards
20 related to informational text, but the content that's
21 being used is literature.
22 So, students are -- there's this lack of
23 alignment between the standard and the instruction being
24 provided. So, in completion of this instruction students
25 would not be able to demonstration mastery of

1 informational text, because they are receiving instruction
2 and practice in literature selection, not an informational
3 text.
4 Q. Are there separate Arizona College and Career
5 Ready Standards pertaining to literature such as "The
6 Giver?"
7 A. Yes.
8 Q. And are there other reading activities that are
9 identified in these lesson plans contained in Exhibit 7-C?
10 A. Yes. On page 257 the top row is identified as,
11 "Reading," and we have a description of an activity,
12 inventors or inventions, examine a list of inventors and
13 their inventions and we have standards there. These have
14 a different code on them so I'd like to go to the
15 standards exhibit to identify those standards, and those
16 would be in Exhibit 9-E, the English language arts
17 standards for third to fifth grade.
18 On page 424 -- the code in the weekly lesson
19 plan is SL41-SL51, on page 424 you will find those
20 standards. This is the Arizona College and Career Ready
21 Standards for English language arts and the speaking and
22 listening standards for third to fifth grade. The middle
23 column is fourth grade, the right-hand column is fifth
24 grade. You see the first standard for fourth grade. If
25 we go to the bottom of that we'll see that code 4SL1. In

1 the right-hand column for fifth grade we'll see the code
2 5SL1.
3 So, in reading the standard we'll see that the
4 fourth grade students will engage effectively in a range
5 of collaborative discussions, one-on-one, in groups, and
6 teacher led with diverse partners on grade four topics and
7 texts building on others' ideas and expressing their own
8 clearly. It goes on to state that students will come to
9 discussion prepared having read or studied required
10 material, explicitly draw on that preparation and other
11 information known about the topic to explore ideas under
12 discussion and following agreed upon rules for discussion
13 and carry out assigned roles, to pose and respond to
14 specific questions to clarify or follow up on information
15 and make comments that contribute to the discussion and
16 link to remarks of others, and review the key ideas
17 expressed and explain their own ideas and understanding in
18 light of the discussion.
19 The grade five standard is very similar. They
20 will engage effectively in a range of collaborative
21 discussions, one-on-one, in groups, and teacher led with
22 the diverse partners on grade five topics and texts,
23 building on others' ideas and expressing their own
24 clearly. It goes on to state that students will come to
25 discussion prepared having read or studied required

1 material, explicitly draw on that preparation and other
2 information known about the topic, explore ideas under
3 discussion and follow agreed upon rules for discussions,
4 and carry out assigned roles, pose and respond to specific
5 questions by making comments that contribute to the
6 discussion and elaborate on the remarks of others and
7 review the key ideas expressed and draw conclusions in
8 light of information and knowledge gained from the
9 discussion.
10 The description here on page 257 states that
11 students will examine a list of inventors and their
12 inventions. It does not indicate that they are engaging
13 in discussion or learning how to engage in discussion as
14 described in the standards.
15 Moving into the next statement. They will
16 review research material. Again, we see speaking and
17 listening standard 4.1, we see speaking and listening
18 standard 5.1, as well as continues all throughout the week
19 that the activities remain the same, examine the list of
20 inventors and their invention, review the research
21 material throughout the week, but nothing to indicate that
22 it is aligned to the standard ascribed.
23 The other standard that's indicated there SL4.4
24 on page 424 we can see that at the bottom middle column
25 Core standard for fourth grade they are to report on a

1 topic or text, tell a story or recount an experience in an
2 organized manner using appropriate facts and relevant
3 descriptive details to support main ideas or themes, and
4 speak clearly at an understandable pace -- which I hope
5 I'm doing.
6 We also see standard, speaking and listening
7 standard 5.2 and 5.4. 5.2 indicates that students
8 summarize a written text, read aloud or information
9 presented in diverse media and formats including visually,
10 quantitatively, and orally. And speaking and listening
11 standard four, report on a topic or text or present an
12 opinion sequencing ideas logically and use appropriate
13 facts and relevant descriptive details to support main
14 ideas or themes and speak clearly at an understandable
15 pace.
16 Here we see that students are going to read
17 "Scuba" by Cindy Briggs.
18 Q. And you're referring to what page?
19 A. I'm sorry, on page 257, back in the weekly
20 lesson plan. The students will read "Scuba" by Cindy
21 Briggs and have students answer questions along with the
22 story. On Tuesday "An Adventure in Time" by Cindy Briggs,
23 answer questions. Wednesday, "Bully Braille," by Cindy
24 Briggs, and answer questions.
25 Again, nothing to indicate that they're

1 reporting on a topic or summarizing written text or
2 reading aloud. So, described activities in this weekly
3 lesson plan do not align with those identified standards.
4 Q. Would you, please, refer to Exhibit 1-B on page
5 16. In response to your request, the request at the
6 bottom of the page for Founding Fathers to have yearly
7 lesson plans aligned to Arizona College and Career Ready
8 Standards available for your review at the time of the
9 visit. Did Founding Fathers make available for your
10 review either at or following the site visit any lesson
11 plans for sixth grade?
12 A. No.
13 Q. Did Founding Fathers make available for your
14 review either at or following the site visit any lesson
15 plans for middle school?
16 A. No.
17 Q. And what grades are middle school?
18 A. Seventh and eighth grade.
19 Q. And on the same page 16, the sixth bullet up
20 from the bottom requested that Founding Fathers make
21 available for review at the time of the visit pacing
22 guides -- I'm sorry. We're going to talk about middle
23 school math for a minute.
24 The fourth bullet in the top it requests for
25 Founding Fathers at the time of the site visit to make

1 available pacing guides?
2 A. Yes.
3 Q. Thank you. In terms of the Founding Fathers'
4 representation DSP on page 21 that they had purchased the
5 Envision Math curriculum were there math pacing guides
6 made available for your review at the time of the site
7 visit?
8 A. Yes, we reviewed the math.
9 Q. And for what grades?
10 A. K through six.
11 Q. And would you please refer to Exhibit 8-A. What
12 is contained in Exhibit 8-A?
13 A. This is a -- it's titled, "A Course Two Level
14 Pacing Chart," and it indicates the units of instruction
15 and the sequence for them. On page 263, "Paced Lesson
16 Planing Guide," identifies a segment, nine-week segment
17 and then lists standards to be covered. And then under
18 that box the segment one listed the five days of
19 instruction and then under that state standards covered
20 and list a set of standards.
21 These standards, these codes these are the
22 Arizona academic standards. These are not the Arizona
23 College and Career Ready Standards codes.
24 Q. And what was the source of the document, of the
25 document contained in Exhibit 8-A?

1 A. This was given to us by Founding Fathers.
2 Q. In response to your request for --
3 A. For pacing guides --
4 Q. -- math pacing guides?
5 A. Yes, for seventh -- and this one is for seventh
6 grade, yes. So, in reviewing this document there's
7 nothing to demonstrate that they have pacing for the
8 Arizona College and Career Ready Standards.
9 Q. So, these documents contained in Exhibit 8-A
10 reflect that -- do they reflect that their seventh grade
11 students are being taught the prior, the old standards?
12 A. Those are the standards that are indicated here,
13 yes.
14 Q. And would you please refer to Exhibit 8-B and
15 tell me what's contained in 8-B.
16 A. 8-B is labeled, "Course Three Level Pacing
17 Chart," and it is listing the chapter and instructional
18 sections. On page 273 we have the paced lesson planning
19 guide. In the nine-week segments their indication of
20 standards and within each segment the list of the lessons
21 for the five days and the standards covered. Again, we
22 see here the codes for the Arizona academic standards not
23 the Arizona College and Career Ready Standards.
24 Q. If we go back a moment to Exhibit 8-A. When you
25 were provided a copy of what's contained in Exhibit 8-A

1 were you told that it was a representation of what was
2 being taught its seventh graders in math during that
3 school year?
4 A. Yes.
5 Q. And with regard to what's contained in
6 Exhibit 8-B did the school represent that that was what
7 was being taught its students this school year for eighth
8 grade math?
9 A. Yes.
10 Q. And if you would please refer to Exhibit 9-F.
11 What is contained in Exhibit 9-F?
12 A. 9-F is Arizona's College and Career Ready
13 Standards for math seventh grade.
14 Q. And are the academic standards that are
15 identified in Exhibit 8-A on pages 263 through 268 the
16 mathematics in Arizona College and Career Ready Standards
17 that Founding Fathers was required to be teaching to its
18 seventh grade students?
19 A. No.
20 Q. And if you would please refer to Exhibit 9-G and
21 tell us what's contained in Exhibit 9-G.
22 A. 9-G is Arizona's College and Career Ready
23 Standards for mathematics, eighth grade.
24 Q. And are the academic standards that are
25 identified in Exhibit 8-B on pages 273 through 278 the

1 mathematics Arizona College and Career Ready Standard that
2 Founding Fathers was required to be teaching to its eighth
3 grade students in the 2013-2014 school year?
4 A. No.
5 Q. I believe it was your testimony that you were
6 provided with math pacing -- math pacing guides were made
7 available for your review at the time of the site visit
8 for grades kindergarten through sixth; is that correct?
9 A. Yes.
10 Q. And did the pacing guides for the Envision Math
11 program that you were provided at the site visits for
12 grade kindergarten through sixth reflect the Arizona
13 College and Career Ready Standards?
14 A. Yes.
15 Q. And if you would please refer to Board's
16 Exhibit 1 at page 21. As reflected in the fifth paragraph
17 it states that: "Founding Fathers purchased its math
18 program in July, but didn't get it in its entirety until
19 September due to back orders, therefore, we are still in
20 the process of implementing it and using it to its full
21 capacity." Is that correct?
22 A. Yes.
23 Q. And would you, please, refer to page 19 of this
24 same exhibit, the third paragraph down in it's DSP
25 document Founding Fathers states: "Our 9 through 12

1 curriculum is the A Plus curriculum -- or A Plus Online."
2 Did Founding Fathers make available for your
3 review at the site visits any lesson plans from A Plus
4 Online?
5 A. No.
6 Q. Did you have a discussion with the -- at the
7 site visit with the representatives of Founding Fathers
8 about the A Plus Online lesson plans?
9 A. Yes.
10 Q. And what was that discussion?
11 A. Well, they stated that they were using the
12 A Plus Online and that they stated that it was aligned to
13 the Arizona College and Career Ready Standards.
14 Q. Did you request that they send you anything
15 evidencing that after the site visit?
16 A. Yes.
17 Q. What did you request?
18 A. We requested, I believe, evidence of alignment
19 of the A Plus curriculum to the Arizona College and Career
20 Ready Standards.
21 Q. Okay. And what did you receive?
22 A. We did not receive anything.
23 Q. Can't you just go online on Google and find out
24 whether the A Plus Online lesson plans are aligned to
25 Arizona College and Career Ready Standards?

1 A. An online curriculum similar to textbooks will
2 have different version. So, there would be an A Plus
3 Online version that aligns to Arizona College and Career
4 standards, but there's also previous versions that was
5 aligned to the older standards.
6 They were not able to provide us evidence that
7 they have the version that's aligned with the college and
8 career ready standards.
9 Q. Your Honor, I'm about to go into a different
10 area. Is it your preference that we stop at a somewhat
11 natural breaking point?
12 ADMINISTRATIVE LAW JUDGE: I think that
13 would be appropriate. So, we will go off the record at
14 this time.
15 MS. ANDERSON: Just before we do that, Your
16 Honor, I apologize.
17 ADMINISTRATIVE LAW JUDGE: Go ahead.
18 MS. ANDERSON: There's just one matter that
19 I wanted to raise before tomorrow morning.
20 ADMINISTRATIVE LAW JUDGE: Okay.
21 MS. ANDERSON: And that is that there, I
22 was provided with a -- I was provided yesterday with a
23 Founding Fathers' amended witness list that adds a witness
24 Rebecca Walker. Rebecca Walker was not previously
25 identified on the list of witnesses in exhibits that were

1 due by, on, or before March 3rd. I object to Ms. Walker
2 testifying, because her identification is untimely.
3 Additionally there are -- it's the Board's position that
4 her testimony as a parent is cumulative in light of the
5 other parents that have been identified that will be
6 testifying as well. And I want to address that in the
7 event that Ms. Walker was planning to come to the hearing,
8 I want to address that before tomorrow.
9 ADMINISTRATIVE LAW JUDGE: Okay. Was that
10 filed with me, also?
11 MS. STILLMAN: No, Your Honor. The
12 updated --
13 MS. ANDERSON: Okay.
14 MS. STILLMAN: No.
15 ADMINISTRATIVE LAW JUDGE: Okay. Any
16 response?
17 MR. CONDOS: Yes, Judge. Ms. Walker
18 wasn't, initially wasn't going to come, because she had
19 employment problems this week. She called us back and
20 said that she was going to make arrangements to take off
21 so that she could be here, because she felt very strongly
22 that she wanted to testify about the school and the
23 effects that it had on her special child and we tried to
24 accommodate her.
25 She'll probably be -- none of the parents

1 even though they're going to be testifying in similar
2 areas will really be cumulative, because each one of them
3 are going to talk about students that have different needs
4 and different areas that this school has made better and
5 that's kind of the uniqueness of this school, because it
6 has so many diverse special type of students. And, you
7 know, Ms. Walker just took the extra effort and insisted
8 that we try to get her out here.
9 Along that vein, since we're going a little
10 bit slower than I think anybody anticipated I have real
11 concern as to whether or not we can finish this in three
12 days, even rushing our witnesses as fast as we can. What
13 would The Court do if we can't get it finished, because
14 it's going to make a difference because a lot of these
15 folks are coming three and a half hours to get down here,
16 so.
17 ADMINISTRATIVE LAW JUDGE: Just generally
18 if, if witnesses -- I'm willing to take witnesses out of
19 order to accommodate schedules, those kind of things. If
20 we don't finish in three days I'll have to set it for
21 further hearing and it would -- not having my calendar in
22 front of me, I would say at least mid May would be my next
23 availability. And again, it would depend on how many more
24 days we would need at that point. So, if it's only one I
25 may be able to squeeze it in earlier, it just depends.

1 As far as Ms. Walker goes I know the
2 exchange of witness and exhibit list deadline was earlier,
3 but since we don't have formal discovery rules in the
4 administrative proceeding I will allow her to testify if
5 that's, if she is called as a witness. And I think maybe
6 tomorrow we'll have a better idea to where we are going
7 forward. Were your witnesses planning on coming for
8 tomorrow or Friday?
9 MR. CONDOS: We've got some set for
10 tomorrow and some set for Friday -- I mean, yeah, for
11 Friday. The ones that we have -- some are going to stay
12 the night and so we've got some flexibility on a few of
13 those. The ones that aren't going to stay all night we're
14 going to try to get them on, obviously, tomorrow. So,
15 we're doing a juggling act.
16 ADMINISTRATIVE LAW JUDGE: Okay. As I
17 said, if we have to interrupt the testimony to accommodate
18 that I'm willing to do that.
19 MR. CONDOS: Very appreciated.
20 ADMINISTRATIVE LAW JUDGE: I know it's
21 troubling for you, but I understand the effort witnesses
22 have gone through to appear so I do want to be cognitive
23 of that. So, anything further?
24 MR. CONDOS: Nope.
25 ADMINISTRATIVE LAW JUDGE: Then we will go

1 off the record at this time and I will see you all back
2 tomorrow.
3 (Hearing adjourned at 4:52 p.m.)
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STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

I, ANGELA FRITTS, RPR, do hereby certify: That the foregoing hearing was taken before me, a Certified Court Reporter for the State of Arizona; that the witnesses before testifying, were duly sworn to testify to the whole truth; that the questions propounded to the witnesses and the answers of the witnesses thereto, were taken down by me in shorthand and thereafter reduced to typewriting, under my supervision and direction; that the foregoing pages, numbered 1 through 256, inclusive, constitute a true and accurate transcript of all the proceedings had upon the taking of said hearing, all done to the best of my skill and ability.

I FURTHER CERTIFY that I am in no way related to any of the parties hereto, nor am I in any way interested in the outcome thereof.

ELECTRONICALLY SIGNED AND DATED this 14th day of April, 2014.

/s/ANGELA FRITTS

Angela Fritts, RPR
Certified Court Reporter No. 50615