IN THE OFFICE OF THE ADMINISTRATIVE HEARINGS

STATE OF ARIZONA

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

HEARING

Phoenix, Arizona
May 16, 2014
8:30 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

CERTIFIED COPY

1 I N D E X

2 FOR THE CHARTER BOARD:

3 WITNESS: DeAnna Rowe

4 EXAMINATION BY: PAGE

5 Ms. Anderson 824, 868

6 Mr. Condos 838

7 * * *

8

9

10 EXHIBITS MARKED

11 FOR THE CHARTER BOARD:

12 Exhibit Description Admitted

13 No. 16 Corrected version of Jefferson Academy Advanced Learning's Dashboard 830

14

No. 17 May 9th Correspondence 828

15

* * *

16

17

18

19

20

21

22

23

24

25

1 I N D E X (cont'd.)

2 FOR THE CHARTER SCHOOL:

3 EXAMINATION BY: PAGE

4 WITNESS: JANICE STEWART

5 Mr. Condos 869, 915

6 Ms. Anderson 906

7 WITNESS: SHEENA GIA-MARTZ

8 Ms. Stillman 920, 953

9 Ms. Anderson 943

10 WITNESS: SANDY STEWART

11 Mr. Condos 956

12 Ms. Anderson 1003

13 Mr. Condos 1006

14 WITNESS: REBECCA ANNE WALKER

15 Ms. Stillman 977

16 Ms. Anderson 986

17 * * *

18 EXHIBITS MARKED

19 FOR THE CHARTER SCHOOL:

Exhibit	Description	Admitted
21 No. B	Letter from Dan and Sheryl Fondren	990
22 No. C	Letter of support from Earl E. Hammer	990
23 No. D	Letter of support from Jennifer Krumiried	990

24

25

I N D E X (cont'd.)

Exhibit	Description	Admitted
No. E	Letter of support from Jennifer Scott	990
No. F	Letter of support from Vera A. Meier-Bennett, MD, FAAP, IBCLC	990
No. G	Letter of support from Toby and Jamie Reidhead	990
No. H	Letter of support from Hilda Loveless	990
No. I	Letter of support from Anna Merrill	990
No. J	Letter of support from Shely Jarrell	990
No. K	Letter of support from Kathleen Winans	990
No. L	Letter of support from Kevin Eoff	990
No. M	Letter of support from Deborah Bailey	990
No. N	Letter of support from Chloe Reidhead	990
No. O	Letter of support from Bridgete Blake	990
No. P	Letter of support from Terry and Judy Arnold	990
No. Q	Letter of support from Rebecca Walker	990
No. EEE	Founding Fathers Parent Satisfaction Survey	1000
No. VV	"Oh the Places They'll Go! School Ratings: Improving Data in Data Driven Decision Marking" May 2013, Issue No. 2, by Anabel Aportela and Ildiko Laczko-Kerr of the Center for Student Achievement	1003

1 A HEARING was taken upon oral examination by the
2 parties through their respective attorneys before ANGELA
3 FRITTS, RPR, a Certified Reporter in the State of Arizona,
4 at the OFFICE OF ADMINISTRATIVE HEARINGS, 1400 West
5 Washington Street, Suite 101, Phoenix, Arizona, on the
6 16th day of May, 2014, commencing at 8:30 a.m. of said
7 day. Further, this hearing was taken pursuant to the
8 Arizona Rules of Civil Procedure.
9
10 COUNSEL APPEARING:
11
12 Kim S. Anderson, Esq.
ASSISTANT ATTORNEY GENERAL
13 1275 West Washington Street
Phoenix, Arizona 85007
14 Attorneys for Arizona State Board for
Charter Schools
15
16 Leonidas G. Condos, Esq.
Kathleen Stillman, Esq.
17 THE CONDOS LAW OFFICE, P.L.C.
1820 East Ray Road
18 Chandler, Arizona
Attorneys for the Charter School
19
20 Tammy L. Eigenheer
Office of Administrative Hearings
21 1400 West Washington, Suite 101
Phoenix, Arizona 85007
22 Administrative Law Judge
23
24
25

1 P R O C E E D I N G S
2 May 16, 2014 8:47 a.m.
3 - - -
4 ADMINISTRATIVE LAW JUDGE: Okay. We are
5 back on the record in Docket No. 14F-FSRV-002-BCS. It is
6 May 16th, 2014 at approximately 8:47 a.m. My name is
7 Tammy Eigenheer. I am the Administrative Law Judge
8 assigned to this matter. And the parties' appearances on
9 the record, start over here and --
10 MS. ANDERSON: Kim Anderson, Assistant
11 Attorney General appearing for the Arizona State Board for
12 Charter Schools. And to my right is DeAnna Rowe, the
13 Executive Director of the State Board for Charter Schools.
14 MR. CONDOS: Leo Condos, Your Honor,
15 representing Founding Fathers. To my left here is Kathy
16 Stillman, my associate. Directly behind me is Sandy
17 Stewart, the charter representative, and Janice Stewart,
18 his wife and also teacher and woman of many hats.
19 ADMINISTRATIVE LAW JUDGE: Okay.
20 MR. CONDOS: He's incognito at this point.
21 ADMINISTRATIVE LAW JUDGE: I noticed that,
22 so.
23 MR. CONDOS: Yeah.
24 ADMINISTRATIVE LAW JUDGE: As I recall,
25 Ms. Stewart was on the stand when we last finished?

1 MS. ANDERSON: Yes, that's correct, Your
2 Honor. I do have a preliminary matter that I would like
3 to address.
4 ADMINISTRATIVE LAW JUDGE: Okay.
5 MS. ANDERSON: There -- since we were here
6 last there is new evidence in the matter that has come to
7 light that prompts me to request that the Board be allowed
8 to reopen its Case in Chief to correct the testimony of
9 Ms. Rowe that she gave on March 26th with regard to Board
10 Exhibit 3. Specifically, since Ms. Rowe's testimony it
11 was discovered that there were errors in the computer
12 code, which translated into errors in the 2013 Academic
13 Dashboard, which, in turn, affected Jefferson Academy's
14 performance on the 2013 Academic Dashboard.
15 Ms. Rowe investigated this error. She took
16 action to correct the 2013 dashboards and to generate
17 corrected 2013 dashboards. The Board's charter schools
18 were advised of this issue and of the generation of the
19 corrected 2013 dashboards last Friday, May 9th.
20 Prior to Ms. Rowe's communication to the
21 charter schools about this issue I contacted Mr. Condos
22 and spoke with him, advised him of the development and
23 that I would be requesting to reopen the Board's case in
24 order to correct her testimony. I also e-mailed a copy of
25 Jefferson Academy's corrected 2013 dashboard to Mr. Condos

1 and Ms. Stillman last Friday morning as well.
2 A copy of Ms. Rowe's communication to the
3 charter schools was e-mailed to opposing counsel on Monday
4 morning the 12th. And this is, it's the Board's position
5 that this new evidence will correct the record and that I
6 think is important to do. And the request to reopen its
7 Case in Chief is for the limited purpose with regard to
8 the corrections on the dashboard, and it provides for a
9 full and accurate record and it's supported by
10 A.R.S. §41 1092.070 D, which provides that the parties
11 shall have the opportunity to provide evidence on all
12 relevant issues.
13 ADMINISTRATIVE LAW JUDGE: Okay.
14 MR. CONDOS: Your Honor, we do not object
15 to opening the record to adequately reflect, but we would
16 like to have the leeway to question the witness when she
17 does testify as to the problems -- as to what were the
18 problems and the source of them, et cetera, et cetera.
19 And with that I believe it would probably be best to have
20 her testify first and then have the Defense continue, the
21 Founding Fathers continue forward. So, on that point I
22 think I've laid it out, but I do have another issue, too,
23 before we get started.
24 ADMINISTRATIVE LAW JUDGE: Okay. And what
25 would that be?

1 MR. CONDOS: Judge, as you remember from
2 the last hearing there was subpoena that was sent to an
3 individual from the State Board for Charter Schools who
4 had written an article with respect to the AIMS test and
5 some deficiencies that were felt in that particular matter
6 especially with children from low poverty areas. The
7 association employed DeAnna Rater, an attorney who filed a
8 motion to quash, which we all didn't get until the last
9 day of the hearing. Since the matter went forward we
10 didn't have to worry about that at the time. So,
11 basically I withdrew it.
12 We found another subpoena and for some
13 reason we found out yesterday, I believe, that it was
14 denied and couldn't find out who or what did it and so
15 that's a potential problem, because we think that she
16 should testify, because the State's not willing to admit
17 it by agreement. And so again, depending on whether we
18 finish today, it will be a moot point if we don't, but if
19 we, I guess, I would ask The Court, and it would probably
20 point towards the end of leeway to at least try to get her
21 in to testify.
22 ADMINISTRATIVE LAW JUDGE: Response?
23 MS. ANDERSON: Oh, yes, Your Honor.
24 I did see on the O Website that the
25 subpoena was denied. It continues to be the Board's

1 position that Dr. Laczko-Kerr's familiarity with the
2 State's A through F letter grade system and her analysis
3 of data from that system in 2012 is not relevant and it
4 confuses the issue for the hearing.
5 The State's A through F letter grade
6 comprises five percent of the Board's Academic Dashboard
7 and it was because the school failed to meet or make or
8 demonstrate sufficient progress toward the Board's
9 academic performance expectations set forth in The Board's
10 framework that led to the Charter Board's decision to
11 revoke in lieu of restore this, that school's charter.
12 Dr. Laczko-Kerr's testimony about data from
13 the State's 2012 A through F letter grade system isn't
14 relevant to those issues and her expert testimony will not
15 assist you as the trier of fact.
16 MR. CONDOS: And Judge, just one comment on
17 that. It wouldn't have gone to the Board for their
18 dashboard system if the AIMS hadn't come up with it. And
19 the 2012 is relevant, because there was a D before that
20 and her comments basically have to do with the test as a
21 whole.
22 ADMINISTRATIVE LAW JUDGE: I did deny this
23 subpoena. Overall I don't feel it's within my power to
24 force an expert witness to testify on behalf of a party.
25 If you want an expert witness to testify that you would

1 have to arrange an agreement with that expert.
2 As far as the articles -- and I don't
3 remember, have they been admitted?
4 MS. ANDERSON: No, Your Honor.
5 ADMINISTRATIVE LAW JUDGE: No, okay. I
6 would be willing to hear argument and discussion on
7 whether or not they're relevant. If they're relevant they
8 can come in without the foundation. I mean, we don't
9 operate under the formal rules of evidence, so if I
10 believe that they have something relevant to offer I'll
11 allow them into evidence. I don't need to offer to
12 testify about them, but as far as her expert testimony I
13 don't think that's an appropriate use of the subpoena
14 power in this situation.
15 So, that's where that stands. And any
16 other preliminary matters?
17 MS. ANDERSON: No, Your Honor, not from the
18 Board.
19 MR. CONDOS: No.
20 ADMINISTRATIVE LAW JUDGE: Okay, Ms. Rowe.
21 MR. CONDOS: Judge, since Janice is going
22 to be testifying can she stay in the room at the present
23 time or do you want her to step out until we're finished
24 with DeAnna?
25 ADMINISTRATIVE LAW JUDGE: Do you have

1 any --
2 MS. ANDERSON: We had a little bit of a
3 bizarre situation, because I originally on the first day
4 had invoked the exclusion rule and then we had the
5 situation with the witness, which was beyond the Board's
6 control. I mean, it would still be the Board's position
7 to request that witnesses be excluded prior to their
8 testimony.
9 ADMINISTRATIVE LAW JUDGE: Okay. Ms. Rowe,
10 I will remind you, you are still under oath. Please,
11 proceed.
12 MS. ANDERSON: Thank you, Your Honor.
13
14 DEANNA ROWE,
15 called as a witness herein, having been previously duly
16 sworn by the Administrative Law Judge to speak the whole
17 truth and nothing but the truth, was examined and
18 continued to testify as follows.
19
20 DIRECT EXAMINATION
21
22 BY MS. ANDERSON:
23 Q. For the record would you, please, state your
24 name and current position?
25 A. DeAnna Rowe, Executive Director for the Arizona

1 State Board for Charter Schools.
2 Q. And you testified in this matter on March 26th,
3 2014; is that correct?
4 A. That is correct.
5 Q. Following your testimony in the hearing in this
6 matter did you discover an error in the Charter Board's
7 2013 Academic Performance Dashboard?
8 A. Yes.
9 Q. Would you, please, refer to Board's Exhibit 3.
10 Did the error that you discovered affect the performance
11 of Jefferson Academy in its 2013 Academic Dashboard as
12 reflected in the Board's Exhibit 3?
13 A. It did, yes.
14 Q. Did you investigate the error?
15 A. I did, yes.
16 Q. And what was the source of the error?
17 A. The source of the error was in the coding that
18 was used in the generation of the dashboard, specifically
19 in certain lines of the computer code that was used to
20 generate the dashboards.
21 Q. After discovering the error what action did you
22 take?
23 A. After we discovered the error we met with the
24 author of the code and went through the code line by line,
25 1,100-plus lines of code, and looked at that code and it's

1 intent and determined whether or not the actions that the
2 code required were in line with what was described in the
3 Board's methodology as far as what the intended purpose
4 was as described in the Board's Academic Framework and
5 Guidance document.
6 After we identified all lines and identified the
7 lines that had errors that needed to be corrected and saw
8 that they were, and confirmed that they were corrected we
9 went back and applied the same 2013 data to that code and
10 generated new dashboards.
11 Q. Before the new dashboards were generated did you
12 take any action to verify the corrections that were made
13 to the code?
14 A. We did. So, the code was initially generated by
15 a research analysis at the Department of Education. We
16 met with that same analyst in identifying the corrections
17 to the code and so after he had confirmed that the
18 corrections were made we enlisted the assistance of
19 another analyst at the department who had not written the
20 code, but was familiar with the language and could read
21 the code. And we had her not only read the code so that
22 we could again determine whether or not it aligned with
23 what was included or intended in the Board's methodology
24 as it's included in the framework, but we also had her run
25 the outputs so that we could say, okay, show us what that

1 looks like and make sure that those sections of code that
2 required corrections were now giving us the expected
3 outputs.
4 And then from there we took the data from the
5 original dashboard generation to the corrected dashboard
6 and did an impact study to look at all of the changes to
7 ensure that the areas that based on the findings that we
8 had anticipated would change because of the errors
9 actually did reflect and include the corrected
10 information.
11 Q. When were all the corrections made and the
12 corrected dashboards generated?
13 A. The work was completed on May 9th.
14 Q. And when were the corrected dashboards generated
15 to the schools?
16 A. As soon as we were able to confirm on May 9th
17 that all of the information was now correct we generated
18 the new dashboard and shared those with the schools.
19 Q. And did you notify the charter schools sponsored
20 by the Board of the error?
21 A. I did, yes.
22 Q. And how did you do that?
23 A. I sent them a letter. The letter specifically
24 was, it was written on May 9th and sent to them through
25 the Board's online e-mail system to each of the charter

1 reps. It informed them of the situation. It identified
2 the general impact and provided them the information as to
3 where to find their new dashboard in ASPCS online.
4 Q. Your Honor, I'd lead like to introduce and have
5 marked what will be Board's Exhibit 17. I do realize that
6 we also have 16, but we will -- that will be subsequent to
7 this one.
8 ADMINISTRATIVE LAW JUDGE: Any objection?
9 MR. CONDOS: No, Your Honor.
10 ADMINISTRATIVE LAW JUDGE: Exhibit 17 is
11 admitted.
12 (Exhibit No. 17 admitted.)
13 BY MS. ANDERSON:
14 Q. And can you, please, tell us what's contained in
15 Exhibit 17?
16 A. Yes. This is the -- this is a copy of the
17 letter that I wrote and sent to each of the charter
18 representatives via e-mail on May 9th.
19 Q. I'd also ask you to refer -- I'd like to have
20 marked and ask you to refer to Board Exhibit 16. And can
21 you tell us what is contained in Exhibit 16?
22 A. Exhibit 16 is the corrected version of Jefferson
23 Academy Advanced Learning's Dashboard.
24 Q. And does Exhibit 16 correct the 2013 dashboard
25 that is contained in Board Exhibit 3?

1 A. It does, yes.
2 Q. Was the action that you described early in your
3 testimony that was taken after your discovery of the error
4 in the charter in the 2013 dashboards, was that action
5 taken with regard to Jefferson Academy's 2013 dashboard
6 that's contained in Exhibit 16?
7 A. It was, yes.
8 Q. Does Exhibit 16 accurately reflect Jefferson
9 Academy's ratings and colors on the individual performance
10 measures of its corrected 2013 dashboard?
11 A. Yes.
12 Q. And does Exhibit 16 accurately reflect Jefferson
13 Academy's overall performance on the 2013 dashboard?
14 A. Yes, it does.
15 MS. ANDERSON: Your Honor, I'd move to
16 admit Exhibit 16.
17 ADMINISTRATIVE LAW JUDGE: Any objection?
18 MR. CONDOS: Preliminary question, Your
19 Honor. With respect to Exhibit 17 do you have any record
20 of whether or not the letter was received by Founding
21 Fathers?
22 THE WITNESS: Are you asking me?
23 MR. CONDOS: Yes.
24 THE WITNESS: I'm sorry. We send the
25 letters to the charter representative to the e-mail that

1 is on file in the lisser, taking note of any of those that
2 bounce back to us as undeliverable. I don't recall that
3 in the list of bounce-backs that Founding Fathers was on
4 that list. I have no reason to believe they didn't
5 receive it.
6 MR. CONDOS: Okay. No objection, Your
7 Honor.
8 ADMINISTRATIVE LAW JUDGE: All right.
9 Exhibit 16 is admitted.
10 (Exhibit No. 16 admitted.)
11 BY MS. ANDERSON:
12 Q. With regard to Exhibit 16 were there any
13 corrections required on the dashboard for the growth
14 indicator, specifically 1A SGP, student growth percentile,
15 or 1B, student growth percentile for the bottom 25 percent
16 on Jefferson Academy's 2013 dashboard?
17 A. No, there were no corrections.
18 Q. Were there any corrections required for the
19 proficiency indicator, which is Indicator No. 2 on
20 Jefferson Academy's 2013 dashboard contained in
21 Exhibit 16?
22 A. Yes, there were.
23 Q. Okay. Let's take those one at a time.
24 What corrections, if any, were required for
25 measure of percent passing in measure 2A of Jefferson

1 Academy's 2013 dashboard contained in this Exhibit?
2 A. So, the correction applied to both math and
3 reading and in the original, in the original code there
4 was a typographical error in the code that prevented that
5 measure from being identified as a falls far below rating
6 in the steps that it takes to the conditions that were set
7 forth to determine whether or not it exceeded, met, did
8 not meet, or fell far below. The code for the falls far
9 below category in comparing the school's proficiency to
10 the bottom 20 percent performance the scale didn't align
11 and because the scale didn't align it automatically
12 skipped that as an option and then the conditions that was
13 set so that it moved automatically to a does not meet
14 instead of a falls far below.
15 When the correction was applied it allowed for
16 the scales to align and when the scales aligned then a
17 school that met that condition or measure that met that
18 condition was then properly identified as a falls far
19 below and then with that the appropriate point assignment
20 was made as well. And because a falls far below receives
21 25-points as opposed to a does not meet making 50-points
22 then that quantified that change.
23 Additionally, when we looked at this section we
24 found that there was an improvement that could be made to
25 the math practices employed within that code with regard

1 to the timing of when an end result was rounded. That
2 there are multiple steps within a calculation and we found
3 that they were making rounding decisions within the
4 calculation as opposed to rounding at the very end. And
5 so you'll see that there are slight differences in the
6 numbers when that improved math practice was applied.
7 And then as we looked at that code it was not
8 addressed in the methodology, but we identified that the
9 school's proficiency rate was rounded to a whole number,
10 while the state proficiency rate included one decimal
11 point. So, we revised that so that the reflection is an
12 actual true comparison number to number. The school's
13 proficiency rate being extended to one decimal point to be
14 consistent with the state proficiency rate.
15 Q. With regard to this measure, the 2A percent
16 passing measure for both math and reading, is there any
17 range of change or correction to your March 26th testimony
18 as to the meaning of the numbers on each side of the
19 forward slash in that measure for both math and reading?
20 A. No.
21 Q. With the corrections made to the measure for 2A
22 percent passing proficiency measure, as you testified, did
23 the percent of students passing the statewide AIMS
24 assessment at Jefferson Academy in reading and math meet
25 the Board's standard under the Board's Academic

1 Performance Framework?
2 A. No.
3 Q. What corrections, if any, were required for
4 measure of composite school comparison in 2B of Jefferson
5 Academy's 2013 dashboard contained in Exhibit 16?
6 A. The original code in 2B had an erroneous step in
7 the calculation that provided for a false data point to be
8 included in that calculation. Specifically, if you recall
9 from my prior testimony, the composite school comparison
10 looks at the students that attend that school by subgroup.
11 And again, that's the free and reduced eligible, the
12 special education population, and the ELL population.
13 In the composite school comparison we look at
14 those students, but each student is only counted once.
15 So, we look at and identify those students who meet all
16 three categories collectively that would meet and then if
17 they meet that then they're out of the rest. They're not
18 considered again. But if there's a student or students
19 that meet two categories those are all considered and
20 there are various combinations then of those three, or
21 there will be students who meet only one category, and
22 then there are students who meet no categories.
23 The false data point was the inclusion another
24 line in the calculation that included all students
25 collectively and that caused then a false data point that

1 had been added in that needed to be removed. So, the
2 correction to the data took out that line that included
3 all students, because again, the intent is to count them
4 each only once and the comparison of those students is to
5 the state -- the proficiency of those same categories of
6 students as they, as they align.
7 Q. Is there any change or correction to your
8 March 26 testimony as to the meaning of the numbers
9 contained in the 2B composite school comparison
10 proficiency measure for math and reading in Jefferson
11 Academy's 2013 dashboard contained in Exhibit 16?
12 A. No.
13 Q. With the corrections made to the 2B composite
14 school comparison proficiency measure, as you testified,
15 did Jefferson Academy's performance in this measure in
16 reading and math meet the Board's standard under the
17 Board's Academic Performance Framework?
18 A. No.
19 Q. Were there any corrections required for the
20 measure of subgroup ELL, English Language Learners, in
21 measure 2C in Jefferson Academy's 2013 dashboard?
22 A. No.
23 Q. What corrections, if any, were required for the
24 measure of subgroup FRL, free and reduced lunch, in 2C of
25 Jefferson Academy's 2013 dashboard?

1 A. The same conditions that I described for percent
2 passing existed in that code for the proper identification
3 of the bottom 20 percent. So, that correction was applied
4 to 2C, the subgroup FRL for both reading and for math.
5 Q. With the corrections that were made to the 2C
6 subgroup free and reduced lunch proficiency measure, as
7 you testified, did Jefferson Academy's performance in this
8 measure in reading and math meet the Board's standard
9 under the Board's Academic Performance Framework?
10 A. No, it did not.
11 Q. What corrections, if any, were required for the
12 measure of subgroup SPED, special education of disabled
13 students in measure 2C of Jefferson Academy's 2013
14 dashboard?
15 A. The same corrections were required to the code
16 in the application for subgroup SPED. The end result,
17 however, was that the rounding, the correction to the
18 rounding, the improvement in the rounding and the
19 identification of or expansion to one decimal point was
20 applied, but the overall subgroup category, the category
21 for that did not change. It remained a does not meet.
22 Q. And with the corrections made to the 2C, SPED
23 subgroup proficiency measure, as you testified, did
24 Jefferson Academy's performance in this measure in reading
25 and math meet the Board's standard under the Board's

1 Academic Performance Framework?
2 A. No, it did not.
3 Q. Is there any change or correction to your
4 March 26th testimony as to the meaning of the numbers on
5 each side of the forward slash symbol in the 2C subgroup's
6 proficiency measures for math and reading in Jefferson
7 Academy's 2013 dashboard?
8 A. No.
9 Q. Were there any corrections required for the
10 state accountability measure in 3A of Jefferson Academy's
11 2013 dashboard?
12 A. No.
13 Q. Were there any corrections required for the
14 graduation measure in 4A of Jefferson Academy's 2013
15 dashboard?
16 A. No.
17 Q. What corrections, if any, were required for
18 Jefferson Academy's overall rating in its 2013 dashboard?
19 A. The overall rating was corrected in as much as,
20 because the points had to be reassigned for the
21 corrections that applied. There was a change to the
22 overall rating as well.
23 Q. And is there any change or correction to your
24 March 26 testimony as to the method for calculating a
25 charter school's overall rating?

1 A. No.
2 Q. With Jefferson's corrected overall rating of
3 38.97 did Jefferson Academy meet the Board's standard
4 under the Board's Academic Performance Framework?
5 A. No, it did not.
6 Q. With Jefferson Academy's corrected overall
7 rating of 38.97 did Founding Fathers meet the Board's
8 academic performance expectation under the Board's
9 Academic Performance Framework?
10 A. No, it did not.
11 Q. Do the corrections to Jefferson Academy's 2013
12 dashboard change your testimony on March 26th that
13 Jefferson Academy's overall rating put it within the does
14 not meet the standard category under the Board's Academic
15 Performance Framework?
16 A. Yes. The school no longer meets the category of
17 does not meet. It now falls into the category of falls
18 far below the standards.
19 Q. And does a falls far below the standard rating
20 mean that the school does not meet the Board's academic
21 performance expectation?
22 A. That is correct, yes.
23 MS. ANDERSON: I have no further questions,
24 Your Honor.
25 ADMINISTRATIVE LAW JUDGE: Cross?

1 MR. CONDOS: Yes, Your Honor.
2
3 CROSS-EXAMINATION
4
5 BY MR. CONDOS:
6 Q. Now, Ms. Rowe, how did you -- how did the error
7 come up? Were you specifically looking at Founding
8 Fathers and their scores when you were reviewing and
9 discovered an error?
10 A. No.
11 Q. Okay. Were you looking at any specific school
12 when you discovered the error?
13 A. I was looking at a dashboard. I can't remember
14 which school I was actually looking at.
15 Q. So, you were looking at a school and were you
16 looking at it because you thought there was an error, or
17 why were you looking at the school and what led you to
18 discover this error?
19 A. I look at each of the dashboards any time we're
20 considering them for any type of action or they have
21 called me to talk about their academic performance. I
22 mean, there are a number of situations any given day when
23 I am looking at a dashboard. And in this case when I was
24 looking at it I actually noticed that the number was very
25 low and wasn't a falls far below and I went, hm, I wonder

1 just how low you have to be to be a falls far below. And
2 that's when I realized and asked the question and found
3 that, in fact, the coding as it was presented failed to
4 incorporate that opportunity.
5 Q. Okay. Who did you ask?
6 A. Who did I ask about the code?
7 Q. No. Who did you ask, yes, when you thought
8 there was a mistake there?
9 A. Our analyst over at the Department of Education.
10 Q. And who was that?
11 A. His name is Derek Fay.
12 Q. Okay. And when did that conversation take
13 place?
14 A. I don't recall the date that it occurred.
15 Q. Was it -- it was, obviously, before May 7th.
16 Was it in March? April?
17 A. I -- again, I can't recall. We have been
18 working on this for several weeks.
19 Q. Okay. Was it before our last hearing or after
20 our last hearing?
21 A. Absolutely after your last hearing.
22 Q. And when you contacted him did you ask him
23 specifically about the one error you found, or what was
24 the source of the conversation that started this
25 investigation into these codes?

1 A. It was, in fact, about how did -- why is this --
2 why -- what is -- the question specifically is, what is
3 that number that would require it to be a falls far below.
4 And when he looked for a response our conversation was
5 that, in fact, that area of the code was in error and
6 because there was an error in that area of the code that
7 led us to question whether or not there may be other
8 errors and I determined it was then appropriate to do a
9 complete review of the entire code.
10 Q. Okay. So if I understand you right, you saw a
11 score on some charter school that you thought should be
12 rated lower than it was?
13 A. No.
14 Q. Should be higher than it was?
15 A. No. I saw a score and questioned given what
16 that score was and how low it was, I wondered what kind of
17 a score it took to meet the falls far below category.
18 Q. Okay. And when you asked the analyst the
19 question did he give you a number as what necessitates a
20 falls far below under the system as it was there?
21 A. He gave me what the number would have been for
22 that school. The number is different for every school
23 based on the composition of their school.
24 Q. Right. So, let's talk about the target that
25 started this, okay. He gave you a number and it was

1 different than what was reflected in your dashboard or was
2 it the same number?
3 A. The number was the same. What was different was
4 that because it was that number and because of what the
5 cut would have been for the designation of the falls far
6 below it wasn't appropriately designated as a falls par
7 below. It fell within that bottom 20 percent, but hadn't
8 been appropriately coded that way.
9 Q. Okay. So, the problem was you had a number and
10 under your system of falls far below it wasn't in that
11 category?
12 A. That's correct.
13 Q. Okay. And then he looked into it to find out
14 why it wasn't showing up as a falls far below category?
15 A. That's correct.
16 Q. Okay. Now, does the dashboard does it generate
17 and provide what's been submitted as Exhibit 16? Who
18 prepares this form Exhibit 16?
19 A. It's computer generated.
20 Q. Okay. And it's generated off of the formula
21 that you were talking about that had the defects?
22 A. It's generated by applying the data from that
23 code to the system that generates the dashboard, yes.
24 Q. To the formula that puts it in the appropriate
25 categories?

1 A. No. The categories are all determined through
2 the code and it comes as a document to us and then that
3 document is fed into the system that is developed to make
4 it pretty.
5 Q. Who created the cutoff points?
6 A. The cutoff points are part of the code based on
7 those calculations.
8 Q. So, the cutoff points vary each year?
9 A. The cutoff points for the bottom -- for the top
10 10 percent meeting the Board's, meeting the state
11 proficiency rate and the bottom 20 percent are calculated
12 based on student performance across the state each year.
13 What that actual number is changes every year, because
14 state student performance changes and school student
15 performance changes, but the condition that is set for the
16 top 10 percent to be exceeds, to meet the expectations
17 you're at or above the state proficiency level, and to be
18 in the falls far below you're in the bottom 20 percent of
19 state performance, that doesn't change.
20 Q. So, the bottom 20 percent has a set number that
21 if you don't reach this number you're below 20 percent and
22 you're going to, you don't, you are falling far below or
23 is that an adjustable number year to year?
24 A. That number changes based on the state's, the
25 students across the state, their performance.

1 Q. So, would it be accurate to say that all the
2 cutoff numbers describing exceeds, falls far below,
3 exceeds standard, meets standard, change year by year?
4 A. Not only do they change year by year, but
5 they're different for each school based on the grade
6 levels that they serve and the state's performance in each
7 of those grade levels, yes.
8 Q. So, there's no uniformity that is applied or one
9 standard that's applied to all schools in the state of
10 Arizona under the dashboard?
11 A. The same standard is used for all schools,
12 absolutely.
13 Q. But they're different numbers?
14 A. They are different numbers, yes.
15 Q. Okay. So, applying to Founding Fathers their
16 cutoffs would be different than, say, one of the, you
17 know, one of the top schools, top 10 percent schools in
18 the state, their cutoff points would be different?
19 A. Unless their student demographic makeup in the
20 size of their grade levels, the grade levels that they
21 serve, and their percents of students or numbers of
22 students in each subgroup were identical they would be
23 different, yes.
24 Q. So, every school is measured by a different
25 cutoff point and different rating; would that be accurate?

1 A. I would have to --
2 Q. Created by this?
3 A. I would have to disagree with that.
4 Q. Where do you disagree?
5 A. Every school is consistently measured using the
6 standards that were set and the calculations that are
7 created based on their performance and the state's
8 performance in those varying measures.
9 Q. But the standards that are set vary with every
10 school?
11 A. I guess I need you to define standard for me.
12 Q. Well, how do you define standard?
13 A. So, I would define -- I'm not sure I would use
14 the term standard. The expectation and the conditions
15 that have to be met to need to be an exceeds, a meets, a
16 does not meet, or a falls far below, those are consistent.
17 In order to be an exceeds you need to be in the top
18 10 percent. I'm talking specifically about 2A and 2C.
19 Q. Top 10 percent of the state?
20 A. The school's performance has to be in the top
21 10 percent. If you'd like we can go to the specifics in
22 the framework.
23 Q. If you need to do that you can do that, but, you
24 know, I would assume that you helped participate in
25 creating this?

1 A. I did.
2 Q. Okay. So, again, elaborate and try to answer my
3 question either way you need to do.
4 A. Okay. I think, because we're of the level of
5 detail I'd like to look at the actual framework.
6 So, I think specifically if we look at -- so, if
7 we go into the Board's exhibits page 114. This is a page
8 that talks about the proficiency indicator percent
9 passing, so specifically 2A.
10 So, when we talk about -- and if we want to use
11 your term standard, the Board standard is that in order to
12 be an exceeds the school's proficiency rates are in the
13 top 10 percent of statewide performance or the school's
14 proficiency rates are at least 90 percent, and so that
15 would be an exceeds and that is, in fact, the standard to
16 meet.
17 Q. So, using that standard are we saying that only
18 10 percent of our schools are going to reach exceeds?
19 A. No. That's why the other condition in there is
20 that the school's proficiency rates are at least
21 90 percent. So, if 90 percent of my students are passing
22 then I exceed regardless of what the rest of the state
23 does.
24 Q. But if it's less than 90 percent then you apply
25 the 10 percent?

1 A. That's absolutely right.
2 Q. So, schools that have less than 90 percent
3 proficiency only 10 percent of those schools are going to
4 be exceeds?
5 A. If less than -- so, I can be in the 90 percent,
6 but let's say the state's, the proficiency rates in order
7 the be in the top 10 percent of performance in the state
8 my proficiency rate is only 85 and that keeps me within
9 the top 10 percent then I'm still an exceeds.
10 Q. Okay. But if you have say a score of 85 percent
11 of your students passing and your scores even though at
12 that rate, because the state's scores were very high in
13 that particular year there's possibilities or, I mean, in
14 that situation would there be schools that had 85 percent
15 passing that didn't reach 10 percent --
16 A. So, yeah.
17 Q. -- that exceeds?
18 A. So, let's say the state's, to be in the top ten
19 percent of performance in the state you had to be, your
20 school's proficiency rate had to be 95. This exceeds
21 category allows you even though you didn't meet the 95,
22 but you fell within the 90 you're proficiency rate was 90,
23 you still exceed. But if you were at 89 and the state's
24 proficiency rate to be in top 10 percent is anything
25 greater than that you would, you wouldn't get that

1 category. You would fall into the meet standard, because
2 then you're not in that top 10 percent and/or you're not,
3 you didn't have a 90 percent, but you still were at or
4 above the state's proficiency rate.
5 Q. So, let's look at the other side of the
6 spectrum.
7 A. Okay.
8 Q. To falls far below it says the school's
9 proficiency rates has to be in the bottom of the
10 20 percent statewide performance. So, would it be an
11 accurate statement to say that 20 percent of the students
12 in the state are going to be going to schools that don't
13 meet or falls far behind of the standards?
14 A. I don't think so.
15 Q. Okay. If you have -- so, 20 percent of the
16 schools on state average -- do you know what the number
17 was this year -- last year what the cutoff point for the
18 20 percent were?
19 A. Again, the 20 -- to be in the bottom 20 percent
20 of statewide performance is based on that school and their
21 population compared to the state's population in that same
22 area. So, every school the bottom 20 percent is formulaic
23 and is described in the methodology, but it isn't the
24 same. It's not an absolute. It isn't an absolute number.
25 Just as the top 10 percent identifying that number isn't

1 an absolute, but 90 percent was considered good enough to
2 be exceeds. There isn't a -- that bottom 20 what that
3 number is isn't, isn't consistent. It's not an
4 absolute -- it's an absolute number for each school, but
5 it is not an identified specific number.
6 Q. Was there a threshold for the 20 percent there?
7 Is there any number that we can say that if you score
8 below this you're probably going to be in the 20 percent?
9 A. Again, that number changes for the composition
10 of the school so, no.
11 I -- again, when I looked at and if we look at
12 the, if you look at the, in this case 2C, the subgroup
13 SPED in Exhibit 16 you can see that the state proficiency
14 rate for special ed students is 23.8. But when you look
15 at Founding Fathers their proficiency rate is 8.7, which
16 is a does not meet. Which means that the 20 percent
17 threshold for that, for that category is actually lower
18 than 8.7. I don't know what the number is. I just know
19 that that number doesn't put them now in the bottom
20 20 percent.
21 Q. Okay. And so the 8.7 is the score that it gets
22 based on it scores of its students?
23 A. That's correct.
24 Q. Okay. So, there's no solid numbers anywhere in
25 this methodology that if a school says my student

1 scored -- what's the total amount that you can get on an
2 AIMS test, reading and math?
3 A. The total amount you could -- well, so you would
4 get -- I mean, if I, if I passed it and got them all right
5 I mean, I had a hundred percent, right?
6 Q. Well, you said if I passed it. Is there a
7 cutoff there or some identification that says this is the
8 passing point?
9 A. Yes. There are scale scores that determine.
10 It's not a pass/fail. So, it's a meets the state, yeah.
11 Q. And are those numbers different for every
12 school, is that what you're telling us?
13 A. No.
14 Q. Okay. So, in 2013 what was the pass number, is
15 that the median number?
16 A. No.
17 Q. It's the average?
18 A. No.
19 Q. Okay. What is that number -- what was that
20 number?
21 A. The -- okay. So, we have to back up, because
22 now you're talking about what does it take to pass the
23 AIMS test; is that correct?
24 Q. Right.
25 A. And so when I take an AIMS test -- a student

1 takes an AIMS test based on the number of questions that I
2 answer correctly there is a, there's a scale score that is
3 assigned. And that scale score is different for each --
4 the scale score is different for each of the content
5 areas. And we can pull it up, it's a public document that
6 is available to schools.
7 And it describes in order to be a falls far
8 below there's a range of numbers for my scale score, to be
9 a does not meet there's a range of numbers, to be a meets
10 there's a range of numbers, and again, to be an exceeds on
11 the AIMS test there's a range of numbers. And that
12 range -- so, if you fall within that range then you get
13 that score and the parent gets a letter and the scale that
14 says this is what your student got on the AIMS test.
15 This is specifically to, within each of those
16 scales what did this school's, what was this school's
17 performance. And so for each of these categories, and if
18 we talk about 2A, their overall percent passing, meaning
19 that the percent of students that got a meets or exceeds
20 on the test, in this case their percent passing overall
21 was 16.9 for math and 38.1 for reading. So, that number
22 is based on where those students fell within the scale
23 score, but they're not -- that's not this.
24 Q. So, there is set numbers for each different
25 category going up that a parent can look at the scores or

1 a school can look at the score of this child and say it
2 met the standards on the test or it did not meet the
3 standards for the test, did not pass?
4 A. Correct.
5 Q. Okay. And those are hard numbers?
6 A. Yes.
7 Q. Okay. And who creates those hard numbers?
8 A. Those are -- I don't know. I don't know. Those
9 are numbers that are provided. I don't know who is behind
10 them, but they are the numbers that are used by the
11 Department of Education. I can't tell you who created
12 those.
13 Q. But you base this dashboard on the results of
14 what those numbers are that you don't know?
15 A. No. We base the dashboard on whether or not, on
16 the information from the results of the state assessment
17 of AIMS and the determination of whether those students
18 passed the test or did not pass the test.
19 Q. So, I guess -- and I apologize, I'm just not
20 getting it. How do you know if a student passed the test?
21 A. Because they got a meets on their state test.
22 Q. All right. And that meets has a specific
23 number?
24 A. It has a minimum number, yes.
25 Q. Okay. And you say that can be found on the web,

1 Department of Ed, where can you find those numbers?
2 A. On the website at the Department of Education,
3 mm-hm.
4 Q. And it has specific numbers to deal with that?
5 MS. ANDERSON: Objection; asked and
6 answered.
7 Q. That's okay, I'll withdraw.
8 So, the dashboard is based on the numbers coming
9 out of the AIMS test, correct?
10 A. The dashboards are developed based on the
11 agregation of individual student level data attending each
12 school in comparison to the statewide performance on the
13 AIMS test, yes.
14 Q. But the student level data is the score that
15 they get on the AIMS test?
16 A. The student level data is the not the score
17 itself, but translation of that score into a percent, into
18 whether or not they met the school's expectation -- the
19 state's expectation, so did they get a meets or better on
20 the assessment.
21 Q. Okay. And that is determined by grade level?
22 Each student has to take a test to his equivalent grade
23 level or age level that it should be in that grade; is
24 that correct?
25 A. Yes.

1 Q. Okay. So, if a student -- let me backtrack
2 first on the AIMS test.
3 So, if the numbers that are coming out from AIMS
4 are incorrect it would affect the standards and the meets
5 or not meets standards that are created?
6 A. If the numbers were incorrect the school would
7 appeal that information. There's a data review and a
8 school would have an opportunity to question that data or
9 if the numbers were incorrect the department would take a
10 look at that data and make a determination as to whether
11 or not they would even move forward and publish those
12 scores.
13 Q. Okay. But let's say the numbers are correct
14 from the test, but the test has a flaw in it somewhere,
15 such as doesn't, you know, it tries to take into
16 consideration special ed, but it doesn't take into
17 consideration different socioeconomic levels and students.
18 MS. ANDERSON: Objection. Sorry -- finish
19 your question.
20 Q. And in that situation if that's not a true
21 indication of the person's learning ability that number
22 would be incorrect?
23 A. I can't --
24 Q. Let me rephrase it. That got too long.
25 If the basis of their assessment, the basis of

1 the test doesn't take into consideration of a student's
2 limitations would you agree that that number may not be
3 accurate for that specific student on that test?
4 MS. ANDERSON: Objection; Your Honor. This
5 area of testimony was gone into with this witness on
6 March 26th.
7 ADMINISTRATIVE LAW JUDGE: I think we've
8 covered that.
9 Q. Okay, then I'll withdraw.
10 Did anybody check whether or not the State Board
11 of Education's computations had any defects?
12 A. The State Board of Education goes through and --
13 it's not the State Board of Education. It's the --
14 Q. I'm sorry. The Department of Education.
15 A. -- Department of Education.
16 The Department of Education has an extensive
17 review of their A through F letter grade assignment prior
18 to the release of the state results. There are a number
19 of steps and details. I am not a part of that. I am
20 privy to some of the steps that are involved, but I can't
21 speak to the detail, but I do know that there is an
22 extensive review of the data before the letter grades are
23 reported.
24 Q. And that's great, but my question was: When it
25 was discovered that the dashboard had an error in it did

1 anybody go back to the state to see if there may have been
2 an error in their computer program? Did you ask the
3 state -- the Department of Education if it might have had
4 an error and would they check to see if their computer
5 formula code or whatever had any problems?
6 A. So, if I understand your question, based on the
7 fact that we found an error in the code that was written
8 to create our dashboard did I go back and question whether
9 or not the State, who uses a different system and process
10 and different developers to do their calculation of A
11 through F, did I ask them if they would go back and
12 recheck their calculations?
13 Q. Did you ask them if there was a problem and let
14 them do what they wanted to do? I mean, did you even ask
15 the State to check their numbers?
16 A. Their numbers with regard to the calculation of
17 the school's F grade?
18 Q. Yeah, that, and the numbers that are fed into
19 you so you can come up with your compass -- or your
20 dashboard?
21 A. We absolutely looked at the data that was used
22 to pull into our dashboard, yes.
23 Q. But the data that was used are the state
24 numbers, the state tests, the results of those tests?
25 A. They are the percentage of students who passed

1 the test. They are not the scale scored numbers.
2 Q. And in determining percentages there's,
3 obviously, a formula or an algorithm or something that
4 decides how to place everybody and there could be a
5 mistake in there and I'm not saying there is. But did you
6 ask the State after you found out that there were numerous
7 defects in your dashboard whether or not they found any,
8 any defects in their formula?
9 A. No, I had no reason to ask that question.
10 Q. Okay. Even though the data that you're using in
11 the dashboard is their data you felt that there was no
12 reason to check that part of it out as well?
13 MS. ANDERSON: Objection; asked and
14 answered.
15 ADMINISTRATIVE LAW JUDGE: She's answered
16 the question.
17 MR. CONDOS: I'm sorry, Judge?
18 ADMINISTRATIVE LAW JUDGE: She's answered
19 the question.
20 Q. All right. Now, how many codes and defects,
21 line defects were found in the dashboard?
22 A. We reviewed, again as I testified previously,
23 over 1,100 lines of code. I can't tell you specifically
24 how many lines had errors.
25 Q. Okay. Did your researcher ever inform you what

1 they had to do in order to make the changes to the codes
2 to satisfy what the Board's performance matrix was?
3 A. We absolutely knew what the changes needed to
4 be, because again, we sat down line by line and had them
5 produce the outputs. We said what does this do, does that
6 align with the intent? No, that doesn't align. Okay,
7 let's mark that line that needs to be changed, went to the
8 next line, went line by line. Went back after the
9 corrections were made with the initial writer to say these
10 changes were made and then had somebody else go back and
11 interpret those changed lines for us and produce the new
12 output to ensure that what was intended was the result.
13 Q. How many lines did you identify?
14 A. I think you already asked me and I said I don't
15 know.
16 Q. Was it more than 50?
17 MS. ANDERSON: Objection; asked and
18 answered.
19 ADMINISTRATIVE LAW JUDGE: You can answer
20 the question.
21 A. I don't know.
22 Q. Okay. Now, was Monday's meeting at the State
23 Board for Charter Schools the first time that your Board
24 found out that there were defects with the dashboard?
25 A. Collectively, yes.

1 Q. How many people knew about it before then?
2 A. Two.
3 Q. And when did they find out?
4 A. I alerted my board leadership when I knew that
5 there were errors that needed to be addressed.
6 Q. Would that have been May 9th?
7 A. No.
8 Q. Okay. So, do you have a date for that?
9 A. I don't recall when I met with them, no.
10 Q. And why -- was there a reason that the rest of
11 the Board wasn't notified of this at that particular time?
12 A. Yes. I knew that there were errors. I did not
13 know the extent of the errors, but I wanted to alert my
14 Board President and Vice-president that, in fact, there
15 was a new situation that had developed that could impact
16 on the staff's work, and that I wanted them to know that
17 we were addressing the situation and I specifically asked
18 for their direction in how they wanted to proceed and I
19 followed their action.
20 Q. And their direction was?
21 A. To get the corrections, to assess the impact and
22 to publish the new dashboards, and to share the
23 information with the Board at the next meeting when all of
24 the corrections had been made.
25 Q. So, was Monday the first time that all the Board

1 members, except the two, were aware of the problems with
2 the dashboard or possibly in the package you sent them a
3 day or two before?
4 A. I had conversations with Board members as they
5 raised questions prior to the meeting in preparation for
6 the meeting where the subject came up and I shared
7 information with them.
8 Q. How many board members was that?
9 A. I think just one.
10 Q. Okay. So, board member, one other board member?
11 A. I spoke to all board member -- I spoke to any
12 board member who wanted to talk to me prior to the
13 meeting. And I addressed the question, I believe, with
14 one board member, yes, I think that's right.
15 Q. All right. And I believe at the meeting, at the
16 State Board meeting you said that the detailed information
17 was in the Board members' packets. Did the detailed
18 information with respect to the code and the difficulties
19 and problems was that included in the Board packets that
20 was sent to the individual board members in preparation
21 for the meeting?
22 A. I don't believe I told them that it was in their
23 packets.
24 Q. Did they get any information?
25 A. They had a copy of the letter that I sent to the

1 charter representatives.
2 Q. All right. Did any of the board members raise
3 any questions or issues with respect to the revocations
4 that had been issued based on the incorrect data?
5 A. During the Board meeting as part of the
6 scheduled agenda there was to be a discussion of an ALJ's
7 findings of fact, conclusions of law, and recommended
8 order based on another revocation hearing. And the Board
9 went into executive session to discuss what their options
10 were with regard to proceeding in that matter.
11 Q. Okay. Did you go into executive session with
12 them?
13 A. I did.
14 Q. Okay. But on a public basis did they ever
15 discuss the ramifications of what the defective dashboard
16 effect would be on any of the revocations that they'd
17 issued, specifically like ours?
18 A. No.
19 Q. Were the board members provided with these new
20 dashboards on the schools that they already issued
21 revocation notices to?
22 A. No. I think I provided -- I testified that they
23 got this letter. This was all they got was the letter.
24 Q. So, they didn't get Exhibit 16?
25 A. There was no reason to provide them Exhibit 16.

1 Q. If we look at Exhibit 16 and specifically, first
2 of all, the percent of passing that was changed because of
3 the code error -- it was changed because of the code
4 error, right?
5 A. That's correct, yes.
6 Q. And the only change that I can see is that the
7 first number 17 was bumped down to 16.9 -- I take that
8 back. There's three changes in that line, but that's the
9 first change, 17 to 16.9. It dropped a tenth of a
10 point -- a tenth of a percent; is that right?
11 A. Yes.
12 Q. Okay. But the -- and that is the school's
13 percent also?
14 A. That is correct.
15 Q. Okay. The other one is 60.9 and that actually
16 went up a tenth of a percent. Is that the state's passing
17 rate?
18 A. Correct.
19 Q. Would that 60.9 be the same on all dashboards
20 for schools?
21 A. No.
22 Q. And -- okay. And why wouldn't it? If this is
23 the percent of state passing why isn't that the same on
24 all schools?
25 A. Because I think, as I previously testified, that

1 the percent passing as it created is the school's percent
2 passing and the state percent passing for those grade
3 levels and it's weighted to the school's composition of
4 students at those grade levels.
5 Q. All right. So, how about with students at these
6 grade levels the same as Founding Fathers, would that be a
7 60.9 for all the other schools that are in the same grade
8 levels?
9 A. In the same grade levels and if the composition
10 of those grade levels was the same.
11 Q. So, that varies just about for every school as
12 well?
13 A. It was designed to be an accurate reflection of
14 the school's percent passing compared to a state
15 proficiency level weighted to the school's grade levels,
16 yes.
17 Q. Those two tenths of a percent, the reduction
18 from 17 to 16.9 and the increase of 16.8 to 16.9 caused
19 Founding Fathers to lose 25-points for two tenths of a
20 percent difference?
21 A. That's not correct.
22 Q. Okay. Then how do you explain that the two
23 measures one went down a tenth, one went up a tenth, but
24 they lost 25 points?
25 A. As I previously testified to, the coding error

1 in 2A was specifically a typographical error that
2 prevented the calculation of a falls far below in that
3 category. Additionally, I explained that we made some
4 mathematical improvements in the rounding of the equations
5 that resulted in slight changes in the proficiency rates
6 and, additionally, we extended the state -- the school
7 proficiency to be a decimal point.
8 Q. So, there were no schools in the state that
9 received a falls far below standard on the dashboard?
10 A. I can't say that's true, no.
11 Q. But if the program was defective in that it
12 didn't see a falls far below why would it work on some and
13 not others?
14 A. It would have to -- and I can explain it and I
15 can probably do it better visually, but the most
16 simplified version of it that I can provide to you is that
17 in looking at the school number it was identified -- so
18 we're talking about a percent, right. And the ultimate
19 error was at the top of the column it had, it was percent,
20 but in one column that percent was identified as an actual
21 decimal.
22 So, if we were looking at 15 percent it was
23 written as .15, but in the other column the 15 percent was
24 written as the number 15. And so in some cases if that
25 decimal was actually lower than the number in the state

1 proficiency then the code would work, but it wouldn't
2 catch a .15 and a 15 if, because we weren't comparing --
3 the scales weren't the same. Once we adjusted the scales
4 then it caught everybody that it was -- it identified --
5 catch is a bad word. It identified everybody that it
6 should have, but there would have been rare cases, could
7 have been rare cases where there was no change.
8 Q. Why would a code be able to be set up so that
9 you can have some schools that the percentage works on .15
10 or 1.5 and some schools that it didn't, shouldn't it be
11 the same for everybody?
12 A. Absolutely, it should have been. That's why we
13 corrected it.
14 Q. But you're saying that there were some schools
15 that didn't -- so, if -- you had it corrected, but at the
16 same time all the schools didn't get a falls far below,
17 because that was the way it was set up?
18 A. The only -- it would have only happened in very
19 rare situations where that number actually was lower than
20 that number in the state system. So, it couldn't happen
21 consistent. It only happened in the situation where that
22 decimal point was lower than the percentage, but it
23 didn't, it didn't identify all students as it should have.
24 Q. So, you're saying that the first dashboard,
25 which showed a 50-50, which I think is Exhibit 3, should

1 have showed a 25-25?
2 A. That is correct, yes.
3 Q. And then on the lower part where it talks about
4 the subgroups for free and reduced lunch that shows 50-50
5 and you're saying those should have been 25-25s?
6 A. That's correct.
7 Q. How many dashboards had to be changed?
8 A. So, because of the improvement in the rounding
9 there were changes in almost all dashboards. However, the
10 actual change in the overall rating for schools there were
11 less than 10 percent of the dashboards the changes
12 resulted in an overall rating change.
13 Q. How many dashboards are out there?
14 A. Close to 500.
15 Q. So, it was 50 dashboards or less that were
16 changed?
17 A. Fifty dashboards or less where there was an
18 impact to the overall rating.
19 Q. And were those all because the falls far below
20 standard wasn't set up in the code?
21 A. No.
22 Q. So, there were other reasons?
23 A. I've described other reasons, yes.
24 Q. All right. Now, who created this -- who asked
25 for the structure of this methodology; did the State Board

1 do that for their overall performance? I mean, who
2 created the what you wanted to get these numbers? Who
3 went to the man who created the code and the program and
4 said this is how we want you to do it?
5 A. We entered a contract with the department a year
6 after the department began its initial work in creating
7 our code and we provided them what we wanted based on the
8 methodology that had been adopted and asked them to write
9 a code to automate the development of those dashboards.
10 Q. Okay. And the methodology that had been adopted
11 is that the State's AIMS test and their calculation for A
12 through F?
13 A. No.
14 Q. All right. What methodology had been adopted?
15 A. The methodology is the methodology that's used
16 to create each of these measures in the dashboard.
17 Q. Well, this recent problem with the code
18 illustrates that the -- would you agree that it
19 illustrates that the underlying computer system can be set
20 up in a way that it may prejudice some schools or may not
21 prejudice other schools; in other words, the system or the
22 algorithm can be set up in a way to prove what you want to
23 prove or disprove you want to prove?
24 A. No.
25 Q. Okay. You're saying there's no way that that

1 can be done?
2 A. You didn't ask me if there was no way that could
3 be done. You asked me if it was done and I told you --
4 Q. I didn't say if it was done, but it can happen?
5 MS. ANDERSON: Objection; relevance.
6 MR. CONDOS: This test and this algo -- I
7 mean, dashboard seems to be a key to the whole State's
8 basis as to why this school should be revoked.
9 ADMINISTRATIVE LAW JUDGE: Are you asking
10 her if she amended the algorithm to give Founding Fathers
11 a failing grade or a falls far below standard; is that the
12 question?
13 MR. CONDOS: No, not specifically for
14 Founding Fathers, but specifically for students, not
15 taking into account students in certain areas, special ed,
16 lower income, that may be affected by the ability to take
17 the test or have a high tendency to score lower.
18 ADMINISTRATIVE LAW JUDGE: And I previously
19 heard those are taken into account in subgroups under 2C.
20 MR. CONDOS: Okay. No further questions.
21 ADMINISTRATIVE LAW JUDGE: Redirect?
22 MS. ANDERSON: Thank you, Your Honor.
23
24
25

1 REDIRECT EXAMINATION
2
3 BY MS. ANDERSON:
4 Q. Ms. Rowe, on clarification, is it the letter
5 that is contained in Board Exhibit 17 is that the letter
6 that was provided to the charter board members and -- was
7 that the letter that was provided to the charter board
8 members?
9 A. Yes.
10 Q. And was that provided on May 9th, 2014 as well?
11 A. To the board members?
12 Q. Yes.
13 A. It was discussed on May 9th. It was included in
14 an e-mail that I sent to the board members prior to the
15 board meeting.
16 Q. Okay. When was the board meeting?
17 A. Was it Monday? It was just this past Monday.
18 Q. So, if the board meeting was Monday, May 12th --
19 A. Correct.
20 Q. -- when was the letter provided to the charter
21 board members?
22 A. Oh. Friday. I'm sorry. Yes, May 9th, Friday.
23 Q. And then it was also discussed with them in your
24 report to the Board on May 12th at the meeting?
25 A. Yes, that is correct.

1 MS. ANDERSON: All right. I have no
2 further questions.
3 ADMINISTRATIVE LAW JUDGE: Okay. Thank you
4 very much. Why don't we take a short recess. Go off the
5 record at this time.
6 (Recess taken 10:05 a.m. to 10:26 a.m.)
7 ADMINISTRATIVE LAW JUDGE: We're back on
8 the record and back with Ms. Stewart at this point.
9 MR. CONDOS: Yes. I assume the State
10 doesn't have anybody else in their newly opened --
11 MS. ANDERSON: No, we don't.
12 MR. CONDOS: Then we can get Ms. Stewart
13 back up.
14 ADMINISTRATIVE LAW JUDGE: I will remind
15 you, you are still under oath. Please, proceed.
16
17 JANICE STEWART,
18 called as a witness herein, having been previously duly
19 sworn by the Administrative Law Judge continued to
20 testified as follows:
21
22 DIRECT EXAMINATION (Continued)
23
24 BY MR. CONDOS:
25 Q. Ms. Stewart, you were testifying two months ago

1 when we had to take our break. At that time you stated
2 what your position with Founding Fathers was, but could
3 you restate it very quickly here so we can just kind of
4 get back on track here.
5 A. I am the Director.
6 Q. And do you have any other positions with
7 Founding Fathers?
8 A. Oh, yeah. I teach sixth, seventh, and eighth
9 grade.
10 Q. And are you involved in the initial placement of
11 students or initial contact with students?
12 A. Yes.
13 Q. Okay. Then I also believe we talked about the
14 school's progression and your history with it and you had
15 stated that the school was going real good and that the
16 local pediatrician is the one who kind of made some
17 changes in the student population?
18 A. Yes. She -- we have parents walking in telling
19 us my child has whatever disability, Dr. Bennett says that
20 he needs to come here now.
21 Q. Okay. And you accept those children?
22 A. Absolutely.
23 Q. And do you create an individual education plan
24 for them?
25 A. It depends on the child. If they have a

1 disability then, yeah, I mean that we can create an IEP
2 with we do. If not, we do an ILP, which is an
3 individualized lesson plan. All children get that in our
4 school whether they're special education, if they have an
5 IEP or not, which is an individualized plan, planning out
6 their year academically based on their strengths and
7 weaknesses.
8 Q. And I believe you also testified that the
9 districts send you a number of their students because of
10 what -- how you teach?
11 A. Yes.
12 Q. And what's, you know, are those students on an
13 equal basis with the norm for their grade level or where
14 do they stand?
15 A. No. They're usually several grade levels below.
16 Q. And when you do your placement how do you deal
17 with those kids or how do you prepare individual learning
18 plans for those students?
19 A. We do everyone else. We test them, all children
20 when they come in, find out where they're at academically
21 and then we place them in with their peer group at their
22 ability level so that they're getting special help with
23 the weaknesses that they have.
24 Q. Okay.
25 A. And with their gifts as well.

1 Q. So, if -- you need to speak a little louder,
2 please.
3 A. I'm sorry. I'm battling a cold and I don't have
4 much of a voice.
5 Q. So, if a child was officially in the seventh
6 grade, but was two levels lower, say fifth grade as far as
7 achievement, would he be placed in a seventh grade or
8 fifth grade level?
9 A. In -- you mean in a fifth-grade classroom or in
10 a --
11 Q. Yeah, fifth grade classroom or seventh grade
12 classroom?
13 A. A seventh grade classroom with his peers.
14 Q. And through the individual learning plan you
15 would try to -- would you try to strengthen the
16 deficiencies that he has?
17 A. Absolutely.
18 MS. ANDERSON: Objection; leading.
19 ADMINISTRATIVE LAW JUDGE: You can answer
20 the question.
21 A. Absolutely.
22 Q. There's been a lot of talk and, obviously, the
23 fundamental basis here is the AIMS test. Now, the AIMS
24 test -- was the AIMS test the only performance test that
25 schools were obligated to submit, take -- have their

1 students take and be evaluated upon? Was there a test
2 before that? Let me just ask it that way.
3 A. We give a screener that's not, just so we can
4 get an initial placement, but we do give them the AIMS
5 test.
6 Q. Okay. Before the AIMS test was implemented was
7 there another statewide test that was implemented?
8 A. Before the AIMS?
9 Q. Yes.
10 A. Gosh, whatever standardized test -- well, we've
11 always done AIMS.
12 Q. Okay. Now, next year the process changes again;
13 is that right?
14 A. We get the Park, I think.
15 Q. Yeah, what is the Park?
16 A. I don't know a whole lot about it, honestly. I
17 know that it will be on the computers and from what I see
18 it looks like it will be more, at least in the math part
19 there will be more, I would call them story problems as
20 far as math goes, more life type problems for the --
21 Q. And is that as a byproduct of the new Common
22 Core Curriculum that the State is implementing?
23 A. I'm not aware.
24 Q. Okay. All right. With respect to -- and we'll
25 get to those in a minute, but with respect to your

1 students what grade do you teach again?
2 A. Sixth, seventh, eighth.
3 Q. Okay, which are the tough grades.
4 With respect to your students when they take the
5 AIMS test what do you do to prepare them for it?
6 A. I have to laugh. I'm, I'm -- throughout the
7 year we prepare the kids with, you know, with, through the
8 Common Core with the skills that they need in order to
9 pass the AIMS based on the Common Core and the State
10 Standards, and that's no laughing matter at all.
11 However, right before the AIMS -- understand my
12 students know that they are not going to, that there's
13 going to be struggles when they get to that AIMS. Many of
14 them are several grade levels below and we work very hard
15 through the year so they're hopeful, but they're very
16 nervous having had the experience of taking standardized
17 tests and it looking like Chinese to them. They just
18 never know right before, especially that first opening up
19 of the test booklet they're just not, they just don't know
20 how this is going to affect or, you know, how hard it's
21 going to be. So, we do some little antics.
22 I am, I, I believe in movements a lot with
23 children and it helps them learn. So, we have embraced
24 what we call Brain Gym a lot, which is educational
25 kinesiology. It's helping -- using movement as far as

1 engaging different sides of the brain. So, we start with
2 the Brain Gym, but we also because this is junior high and
3 the very seriousness of the Brain Gym is enough to get
4 them a little nervous we, do the Macarena, which allows
5 them, honestly, to cross the midline and do the same kind
6 of movements, the chicken dance, and then we sing Bob
7 Marley's "Don't Worry Be Happy," song and we get a little
8 silly with it and get them ready. Then we get focused and
9 take deep breaths. They have their, what we call mouth
10 tools, which is just pieces of sour or hot, depending on
11 the child, candy that will allow them to if they get, they
12 lose focus a lot it will allow them to get focused and
13 they're ready to go, but that takes, it takes a lot to get
14 them comfortable.
15 Q. And do you do that educational kinesiology with
16 all the students in your sixth, seventh, and eighth
17 grades?
18 A. Yes.
19 Q. And what has been the byproduct of those efforts
20 as far as the students taking their test?
21 A. They want to come to AIMS. They want to come to
22 school in the morning, which I think is the first step,
23 knowing that they're going to have, they're going to have
24 a little bit of fun right before.
25 They are real adamant that we do it every single

1 time we take a test. If we have a break we have to come
2 back and we have to do it. It makes it -- it makes it
3 desirable for them to be there. I see them sometimes in
4 the middle of their tests where they kind of get scared.
5 You can see the glaze go over their eyes. You'll see
6 them, you know, looking up for a minute and closing their
7 eyes and getting, getting themselves calmed down and
8 they'll go right back and go to work.
9 So, it at least helps them focus and know that
10 they have some control over what's happening on the test.
11 Q. So, during the test they use certain tools --
12 A. Mm-hm.
13 Q. -- to try to help them either mellow down or
14 refocus. What do they -- where do they learn those?
15 A. From me.
16 Q. Okay. And why did you teach them things like
17 that?
18 A. Because I want my students to succeed and I'll
19 do whatever it takes and what I want them to know that
20 they can do whatever it takes to succeed. Sometimes it's
21 out of the box a little bit, because they tend to be out
22 of the box. But there's ways around a learning disability
23 and there's ways around feeling inferior, because of what
24 you see is something you can't do. There's ways around
25 that and they're good people regardless of whether they

1 can do those tests or not.
2 Q. And do you think that these extra non, quote,
3 book educational items will help these students in latter
4 day life?
5 A. Absolutely.
6 Q. Why?
7 MS. ANDERSON: Objection; relevance.
8 MR. CONDOS: We're obligated by the State
9 to create a learning environment, part of the purpose of
10 the performance mission is to create kids for college
11 preparedness, but there's another world out there besides
12 college.
13 ADMINISTRATIVE LAW JUDGE: You can answer
14 the question.
15 A. These kids have learning disabilities for the
16 most part. If it's not learning, because it's organic, I
17 have kids living in motels and tents and in environments
18 that are less conducive to kids that are going to college.
19 They have a tough life that they have to live every day.
20 Their grownup life has already started for many of them.
21 They don't have the protection of their parents like we
22 would assume all children do. These children are raising
23 themselves many times. They have to know how to deal with
24 fear and feeling inferior and feeling as if they're
25 broken. They have to know that there's somebody inside

1 that's not broken. That because of their environment or
2 organically what's going on with them that they can
3 succeed. That they can be, they can be successful. That
4 they can move on to the next step or the next level and
5 don't have to be stereotyped as retarded or less, at-risk,
6 disadvantaged and have to stay in that stereotype.
7 I have an example. I have a little girl that
8 came at the beginning of the school year and was kind of a
9 real stiff little girl and told me don't ask me to talk in
10 class, I won't. I can't do math. I don't know how to
11 write. I can't. I can't. I can't.
12 Okay. So, on the very first day she came in and
13 I said, "Good morning beautiful girl." She looked at
14 me -- and I shake their hand every morning and every
15 afternoon as they walk in and out -- I shook her hand and
16 she looked at me she goes, "Hi."
17 Now, we're at the last -- now, we're starting
18 our last week of school. This same child greets me now
19 with, I'll say, "Hello, beautiful girl."
20 "Good morning, lovely teacher." And instead of
21 the "hi" I get this big old bear hug. And she pops up in
22 class, she answers, she can do math. She's finally
23 mastered division. For her that was climbing Mount
24 Everest. She wrote a letter to me the other day thanking
25 me for believing in her and she told me, Mrs. Stewart,

1 thank you for making me beautiful and thank you for
2 letting me know that I can do math, even though I hate it
3 and I always will, but now I know that I can go to college
4 and I never thought I could.
5 So, that's what we're about.
6 Q. Okay. Does the state have any type of testing
7 or any type of the way to monitor the success that you're
8 talking about of a student who comes in with major issues
9 and whether or not they change?
10 A. Not that I'm aware of.
11 Q. Is that process important not only in the
12 learning process, but in real life?
13 A. If we want these children to gain high test
14 scores somewhere in life, yes, it's absolutely important.
15 Unfortunately, not all children get that opportunity in
16 kindergarten and they have to get it somewhere.
17 Q. And do you feel that that's part of the learning
18 environment that Franklin --
19 A. Jefferson Academy. That was good.
20 Q. -- that Founding Fathers Academy, Jefferson
21 Academy?
22 A. It better be.
23 Q. Okay. So, when they take the test and -- have
24 they taken a test recently, the AIMS test recently?
25 A. March -- April. In April.

1 Q. Okay. And usually how many days does that test
2 take?
3 A. Three.
4 Q. All right. And are they three consecutive?
5 A. This year it wasn't. It was, I guess it was
6 four days. We did two one week and then -- is it two or
7 three, I can't remember now. I'm not really good. Two or
8 three days and the next week.
9 Q. Does the state provide rules as to how to
10 implement that test?
11 A. Absolutely.
12 Q. And does the school have to have a responsible
13 person who has to certify that all the rules were
14 followed?
15 A. Yes.
16 Q. Who is that at Founding Fathers?
17 A. Sally Munsey.
18 Q. And does she give direction to the teachers at
19 the school?
20 A. Yes.
21 Q. Okay. And how does she know or how do you know
22 or Founding Fathers know -- yeah, Founding Fathers and
23 Jefferson Academy know that the teachers understand?
24 MS. ANDERSON: Objection, Your Honor,
25 relevance.

1 Q. We're talking about the learning processes and
2 the steps that have been taken to assist and enhance the
3 learning process for the vital test that we have here.
4 I'll withdraw that question. I'll withdraw that question.
5 And in your class of six, seven, and eight give
6 us, explain to the judge how you implement the test to
7 start off with, besides the exercises and the little
8 movements.
9 A. As per what the state requires?
10 Q. Yes.
11 A. We open up our testing manual and I read the
12 script and we follow the script and the kids follow what I
13 ask them to do.
14 Q. Do you think that the students understand or do
15 you have to make any adjustments when you're reading the
16 instructions?
17 A. I'm not allowed to make adjustments.
18 Q. So, you have to read verbatim whatever they say?
19 A. Yes.
20 Q. How do you, you know, what have you perceived as
21 far as the students when you explained that to them?
22 A. I work very hard throughout the year to give
23 similar type instructions at different times so that they
24 understand that kind of language and that kind of
25 formality so that when they're taking that test that part

1 of it is almost fun for them. The instruction part from
2 what I can see they are capable, you know. I have to walk
3 around and make sure that they're on the right page and
4 they're doing what they're supposed to, and that part
5 they're capable of doing.
6 Q. Okay. So, you kind of teach them how to take
7 the test or get used to the concept and not --
8 A. I make them comfortable with the testing
9 environment.
10 Q. Okay. Now, what is the room like, how many
11 students do you have to test in the sixth, seventh, and
12 eighth?
13 A. Thirty-eight.
14 Q. Okay. From your observations how are the
15 students at taking the test?
16 A. I'm not sure what you mean.
17 Q. I mean, what has been your observations in the
18 students that are taking the test? Are they intent on the
19 test? Do they exercise some of their disabilities, or
20 emotions, or anything that you have to monitor or control?
21 A. They're intent on the test. They've been taught
22 since they were little how important those tests are.
23 They're intent on the test. I do see some, I have, I
24 can't say I saw it this year, but I have in the past seen
25 some that just go bubble, bubble, bubble and don't even

1 look at the test. I didn't see that this year.
2 Q. Okay. And throughout the year has your teaching
3 program curriculum been geared to increase their abilities
4 to score or their abilities to take this test and
5 hopefully get better?
6 A. Absolutely. We have been very open with the
7 students about how important these test scores are to them
8 and what it means, but we try to do it in a non-stressful
9 way. But we do, we do let them know, you know, you need
10 to know this because these kind of questions will be on
11 the test. You need to know how to follow my directions
12 when I give them to you orally, because you're going to
13 have to do that when we take these tests.
14 Q. Okay. And do they take the tests the whole day?
15 A. No, we're usually done by noon.
16 Q. Okay. When do you get the test results back?
17 A. I'm not sure.
18 Q. Okay. When, you know, like with the last series
19 of AIMS tests that you received back what steps did you
20 take with your sixth, seventh, and eighth graders, first
21 of all, to take a look at how they could be bettered or
22 working out any deficiencies?
23 A. I look at those tests very deeply and look at
24 each kind of problem and how many students took them and
25 specifically which students, you know, missed and which

1 ones didn't and what their strengths and what their
2 weaknesses are so that for my returning students I can
3 implement an individualized learning plan immediately.
4 I do have to assess and just see how much
5 they've lost throughout the year to get them up to that
6 point or throughout the summer to get them back up to that
7 point. Understanding these kids have had a whole life
8 coming back, a whole lot of experiences before they come
9 back so sometimes they lose quite a bit. But I get them
10 on target based on what I saw on their tests scores and
11 work on their strength as well as their weaknesses.
12 Q. Okay. Now, the little girl you talked about
13 earlier what grade was she in?
14 A. She's a seventh grader.
15 Q. And was this year the first year at Jefferson
16 Academy?
17 A. No.
18 Q. Okay. How long has she been at Jefferson
19 Academy?
20 A. I think this was her third year with us. It may
21 have been her second.
22 Q. Now, you talked about her progressing
23 emotionally. How has she done from scores?
24 A. From the scores I see she's progressed what I
25 would say was quite a bit. Is she going to get to

1 approaches? Maybe, but I'm not sure. However, next
2 year -- and she will be back next year -- next year we're
3 going to make some, she will make some great strides,
4 because she's now ready to feel like a confident learner
5 and not be so afraid of school.
6 Q. So, how could you categorize your work on a
7 first-year student gets from another school as far as the
8 teaching method and what you have to do besides building
9 them up emotionally?
10 A. I'm assuming that it would be a child that was
11 following that had low test scores.
12 Q. Right.
13 A. We just -- we find out, you know. We test them,
14 we find out where they're at and kind of have to find out
15 what kind of learner they are. You know, we don't have
16 the test -- sometimes we do, but if we do we drill into
17 them what we can. We don't have a whole lot like we do
18 when we get the, you know, with the kids that we've
19 already had. But we do the best we can until we get those
20 scores.
21 Q. Now, do you teach the state standards as part of
22 your curriculum in teaching?
23 A. Yes.
24 Q. With different grades, at least different
25 achievement levels how do you, how do you do that?

1 A. Well, the state standards the way they are I
2 love them in that they add on. So, that on a -- and we
3 did sixth, seventh, and eighth, because that's the core
4 standards complement, sixth, seventh, and eighth, so we
5 had a little bit of latitude.
6 Basically, I find out as a group thing that --
7 well, it depends on what subject you're talking about. In
8 math we break it down in sixth, seventh, and eighth. We
9 kind of -- it's kind of a unique way of doing it, I guess.
10 I don't know. But everybody, our sixth, seventh, and
11 eighth graders all listen to the sixth grade lesson and
12 get the sixth grade lesson, knowing that our eighth
13 graders either need it as a review, or they're learning,
14 or never had it, or that's right where they are. They all
15 get the sixth grade lesson and then we pull out from
16 there.
17 The sixth graders will stay in -- sixth and
18 seventh graders will stay in and work on some math work
19 where the eighth graders will go in and have their own
20 eighth grade instruction. Seventh graders will go in and
21 have their own seventh grade instruction. Eighth grade
22 will do the same thing.
23 Q. Do you expect mastery before you teach the next
24 level or next section of goals?
25 A. No. However, we will continue to revisit their

1 weaknesses, it doesn't just go away. We continue to
2 revisit and expect eventual mastery, but to expect that
3 group to have complete mastery before we move on we'd
4 still be on the first, the first standards.
5 Q. So, do you expect the group itself to master and
6 then you move on?
7 A. No, no, we don't. We move on. However, as
8 individuals we work on mastery and continue to revisit and
9 revisit and revisit those concepts they're having trouble
10 with until we see mastery.
11 Q. How do you do that with 38 students?
12 A. Trick. We do a lot of review. We have a good
13 program that allows us to drill down and to reteach on a
14 continual basis and be very prescriptive on the level of
15 the areas that they're at.
16 Q. Is that with other teachers or assistants or who
17 does that? You can't do that for 38 students.
18 A. No, I don't. I have two aids in my classroom.
19 I also have -- this year I have a math teacher that does
20 the primary teaching. I am -- I'm not a math teacher,
21 per se. So, I have a math teacher that does the primary
22 teaching. And then I've had other help this year, it's
23 been Ms. Tate and actually Mr. Stewart has come in as well
24 to implement the math program so that -- and also Megan
25 Stewart whose math skills are quite high. It was a group

1 effort in this big group to be able to individualize with
2 all these guys.
3 Q. Now, you said that English was different than
4 math. How do you do your English and reading lessons?
5 A. I don't have as big a -- well, first of all, the
6 require -- the standards and requirements for reading
7 aren't as broken for reading as they are for math in
8 middle school. Excuse me.
9 They're not as broken down in middle school like
10 they are in the math and the reading. It's basically
11 working on children that have, you know, phonic awareness
12 issues that are still just sounding out words and having
13 fluency issues. Then we have students that are reading
14 fluently. However, most of our children have a hard time
15 with comprehension whether because of fluency or just
16 exposure. Remembering the group that I have and the
17 socioeconomic level of most of these children or organic
18 issues, which is autism, vocabulary is a big deal. So,
19 that I do a lot more group teaching. However, we do
20 breakdown, I have a reading specialist that takes many of
21 our children and works with them specifically on their
22 reading skills or their, you know, word and text skills,
23 their fluency skills. I work primarily on comprehension
24 and that's an all-day, all-the-time, every, every content
25 area ordeal. That's all the time.

1 Q. What do you do to help them with their
2 comprehension?
3 A. I tell a lot of stories. I'm a very animated
4 teacher and I break things down into levels that they can
5 understand. So, everything is a story. History is a
6 story. Science is a story. But we work on words. They
7 love language and this group is an interesting group.
8 They love language and they're fairly confident little
9 writers when it comes to their voice and their ideas.
10 So -- and I've told them that they're brilliant writers so
11 they believe me.
12 So, we investigate every new word and we have a
13 board, a word well that goes up. And we write on the, you
14 know, they'll say wait, wait, wait, don't know that word.
15 So, we have a -- it's part of our routine is there's a job
16 called the word keeper and they'll holler out, oh, I need
17 the word keeper. This is a new word. I'll stop whatever
18 we're doing and we'll investigate the word and they'll put
19 it up on the board and we use that for vocabulary. We try
20 to catch each other see who can use the words that are up
21 on the board. Oh, that's a word keeper word.
22 I try to get them into language in so many ways.
23 I use literature as part of history and use it. So, if
24 I'm teaching ancient history for sixth graders we're also
25 studying --

1 (Interruption by Reporter.)
2 A. Gilgamesh. Sorry. So, that they're learning
3 the development of language with the development of
4 history, which allows them to develop their own vocabulary
5 as history develops.
6 Q. And have you seen success in that pattern of
7 teaching or?
8 A. Absolutely. I'm seeing their writing really
9 blossom as far as, and their reading comprehension as
10 well, as far as understanding idioms and some patterns of
11 speech and meanings of words. I will have them, say, oh,
12 you know, I hear -- the other day I was watching a cartoon
13 and I heard the word "hydra." You know, is that the same
14 hydra that we heard in Greek? Does that mean hydro like
15 water? So, they're starting to bring roots of words in.
16 We do have -- I do worksheets with them that
17 have to do with vocabulary and comprehension as well. We
18 have something called word ladders where we, it talks
19 about the meanings of words and we change a word with
20 letters and it turns into a different word by the time you
21 get up to the top and we use, we have a lot of the fun
22 with those, as well as just the vocabulary.
23 Three-quarters of our group we have spelling, but I use
24 spelling with writing. So, three-quarters of our group is
25 in a vocabulary group that is way too high for them, but

1 they love it, because we just, we eat those words up and
2 we have fun with them and we talk about them and even
3 months later they'll come back and say, wait a minute, I
4 heard, we had that word for vocabulary word in our
5 vocabulary group.
6 So, we're pretty language rich in comprehension
7 and it does make a difference in their, even in their
8 speech patterns. I'll have a kid, a child come home -- or
9 come back from home and say my mom says I use ten-dollar
10 words. So, I'll say did you explain what the word meant?
11 Yes. So, they're going home and introducing a new
12 language to their parents as well.
13 Q. So, do you dumb down the lessons to their level
14 or do -- yeah.
15 A. That's a naughty word.
16 Q. I know.
17 A. No. Absolutely not. These children are
18 curious. They're junior high children. Junior high
19 children are developmentally about where a three-year-old
20 is when it comes to curiosity and just insatiability.
21 And, honestly, they don't know what they don't know so why
22 don't we just give them the best instead of something in
23 the middle.
24 I teach them -- we do close reading. We love to
25 do close reading. It's fun. Because they love -- they

1 love that. And I tell them we read it like you eat a
2 cheeseburger, you know. Tear apart a cheeseburger and eat
3 pieces, you put it all together and you just enjoy the
4 whole thing and then we'll go back and talk about what we
5 just ate. And I kind of toss in that for everything.
6 We'll just do it like a cheeseburger and then we'll come
7 back and talk about what we did.
8 I don't know if I answered your question.
9 Q. For the last three years we've had low test
10 scores?
11 A. Yes.
12 Q. What have you done during the last three years
13 to try to raise the test scores?
14 A. Well, develop, develop, develop. I mean, this
15 is a work in progress. We've got two things happening.
16 We have children that are phase students that
17 are staying with us year after year. But we also -- what
18 happens is, is we get a kid confident and they're feeling
19 good and they're saying, you know what, I can read now and
20 my math is coming along and I'm doing great and I want to
21 play football, so see ya. I'm better, I'm fixed, and off
22 they go.
23 So, a lot of times once we get their feet on the
24 ground they're off to a district school and we lose them
25 and we get a new crop of kids that aren't -- that are --

1 so, that are new and we have to investigate. So, we do a
2 lot of foundation building.
3 The last three years that has been my focus is
4 just building the foundation, getting them to love
5 learning, to find out that learning is a great thing and
6 it starts with a foundation. You have to get them to know
7 that they're competent learners. Before I can teach them
8 anything they have to know they can learn it. If they
9 can't then might as well give up and go home.
10 Q. So, this foundation and the efforts that you do,
11 do you feel in the last three years that your students
12 have been learning even though they've scored low on the
13 tests?
14 A. I feel like my students -- yes. I feel like my
15 students have been learning even though they're scoring
16 low on the tests.
17 Q. In the exhibits that you've got in front of you
18 we have your scores, I believe on QQ, which is the AIMS
19 COMPs math scoresheet.
20 MS. STILLMAN: Which should be in the
21 white.
22 Q. In the white.
23 A. In the white, okay.
24 Q. On page 270 at the very bottom, bottom of the
25 page.

1 A. Okay, I got it.
2 Q. And these were prepared by you for the students?
3 A. Right.
4 Q. Is this part of your guideline in using and
5 helping and teaching students? Rather than go through all
6 of them --
7 ADMINISTRATIVE LAW JUDGE: I'm sorry. I
8 didn't --
9 A. Yes.
10 ADMINISTRATIVE LAW JUDGE: Yes, okay.
11 A. I'm sorry. I --
12 ADMINISTRATIVE LAW JUDGE: We just need it
13 for the record.
14 A. I apologize.
15 Q. Rather than go through all of them if you'd just
16 look through them and see if any of these kind of, because
17 most of them are up and down, up and down, up and down.
18 A. Right.
19 Q. Can you explain why they go up and down, you
20 know, almost like our stock market?
21 A. Yeah, it feels like the stock market and
22 probably for all the same reasons, honestly.
23 My guys a lot of them are special needs and part
24 of the learning disability is they have it one day and
25 they don't have it the next and it doesn't take much to

1 tip the scales where whatever they had that day they lost,
2 you know. The police show up at your house that night and
3 you don't remember what happened the day before and
4 there's a lot of that going on.
5 But that -- honestly, the typical profile of a
6 learning disabled child is that it takes more repetitions.
7 They have it one week, they don't have it the next.
8 They'll have it the next week. It just -- so, you do see
9 an up and down, up and down score.
10 Q. Does absences play a role in the learning
11 process?
12 A. It can, yes.
13 Q. What's your, if you know, roughly your
14 attendance for your sixth, seventh, and eighth graders?
15 A. I think it's at 93 percent.
16 Q. Now, you say that the home life, obviously,
17 affects these students. I see on page 275 a student in
18 your sixth grade class that your note said was abused as a
19 baby, but it seems to show that it's from his start it was
20 a steady progress and then we went and did the hill game.
21 A. That's my daughter.
22 Q. Oh, okay.
23 A. And she's adopted. For the record, he didn't
24 know that was my daughter. And I can talk about her quite
25 comfortably. She is again, LD. She was dropped on her

1 head for discipline as a baby and has cranial fractures as
2 a result of that, that has caused all kind of problems.
3 She has a very difficult time with language
4 altogether. She is SLI, speech and language impaired,
5 which even now -- are we on five or six years with her --
6 having been in our home and being our own child language
7 is hard. She leaves the endings off of words.
8 Auditorially she has a hard time and I think that's more
9 hereditary than part of the abuse, because I hear her
10 mother had the same problem with auditory processing. She
11 doesn't hear the sounds at the ends of words and we've
12 been working a lot with that, but it's still a tricky -- a
13 tricky area.
14 We don't have the quality of audiologists and
15 speech pathologists there that we would have down in the
16 valley. So, it's frustrating as a mom to get the quality
17 that I wish that I could have with her.
18 Past tense, present tense are still real hard
19 for her and it comes across in her math as well as in her
20 reading and her just comprehension with just social
21 conversation. She has a hard time sometimes.
22 She's a beautiful girl. She's got long red hair
23 and gorgeous and the boys love her, because she plays
24 football better than they do and so socially she does well
25 so far, I mean. We may be coming into some rough water

1 here pretty soon with that. But when it comes to
2 academics we get these big up and downs.
3 I can tell you on 12/12 she was sick and I can
4 tell she was sick, because she shot right up and a lot of
5 times with her if she has an illness she does better.
6 It's like she comes with this creativity curve and then
7 she went down again, but that was clear back in 3/12.
8 She's actually gone up since then and is doing quite well.
9 She feels -- this is -- math is her best subject. She's
10 below grade level, but math is her best subject. Her
11 reading is very, very poor. Her writing is very, very
12 poor and it shows her, because of her own disability she
13 struggles with her writing. Shows her auditory processing
14 issues.
15 Elizabeth is a very, she has to see what -- I
16 said her name, I'm sorry. She's mine. I can't stop
17 myself. She's -- she is a, if you can show it to her a
18 couple of times she can do it.
19 And one of the things I did -- I wasn't happy
20 with these scores, I have to tell you. One of the things
21 I implemented was an interactive math journal that is very
22 hands-on and I love it because they have to explain what
23 they're learning and explain what they're doing and how
24 it's done. And that has made a big difference not just
25 with her, but with others, but especially with her because

1 she had to create something to, to, that shows
2 understanding and it was a lot of cutting and pasting and
3 coloring, but for her and many others it really helped
4 their scores go up.
5 Q. So, you don't think she would make the grade
6 level on the AIMS test if she took it?
7 A. I think she might hit approaches this year.
8 Q. If you look at the page 278, that's another
9 strange one I felt. Another sixth grader that looks like
10 had come to your school had gone up to as high as over 20
11 and then stopped and then went back up and then dropped
12 and then there's a gap. Can you explain that a little bit
13 for us? And then he's starting back almost at the bottom
14 again.
15 A. I don't, you know what, '06. I was looking at
16 the wrong number.
17 Q. 278 there at the bottom.
18 A. Yeah, I was looking here. I have a number here
19 I'm correlating it to, you know, so I can talk
20 intelligently about. I have a guess about who that is. I
21 don't have a number on this one. Probably because I -- if
22 it's who I think it is, which I'm -- we had a -- what's
23 the date on that? No. Oh, you know what, I don't even
24 know who this kid was, but I can tell you what happened.
25 We had, when we tested this child at the

1 beginning of the year -- we tested this child, there's a
2 couple of these children we weren't testing them at their
3 grade level. We were testing them at their ability level
4 so their scores were doing better. Then we decided to go
5 ahead and test them, I wanted to see where they were at
6 all the time at their grade level so we went and had them
7 went to their ability level and that's what that is.
8 Q. Okay. And grade level?
9 A. I mean, at their grade level. We went to their
10 grade level and were testing at their grade level.
11 Q. And grade level is what the AIMS are geared
12 towards?
13 A. Right. That's why I did that.
14 Q. Now, the rest of these are scores and sheets
15 that you had used with the AIMS pretesting or is that --
16 and you plotted the gains and pluses?
17 A. Right.
18 MR. CONDOS: So, Judge, at this time, I
19 don't think we have formally submitted QQ.
20 MS. ANDERSON: QQ was stipulated to.
21 MR. CONDOS: Oh, it is. Were they
22 stipulated?
23 ADMINISTRATIVE LAW JUDGE: Yes.
24 BY MR. CONDOS:
25 Q. Okay. Now, it sounds like you build up their

1 character, you build up their abilities. When they get,
2 after they get -- do you relay the results of the AIMS
3 tests to the students?
4 A. Those come in the summertime and so their
5 parents do that. I mean, we sent letters out, you know,
6 the forms out to the parents, but that's something the
7 parents do.
8 Q. And the document that the parents receive does
9 it indicate meets standard or those?
10 A. Yes.
11 Q. And at least from your scores that you're here
12 for they are doesn't meet standards or falls far behind, a
13 few of them are in the middle. Do you get any feedback
14 from the parents when they receive these?
15 A. I usually give a call to make sure they have
16 their test and talk it over and they ask questions. I
17 have what I call an ILP reading several times a year with
18 parents, which is an individualized lesson plan reading.
19 It's a little more than a parent-teacher conference in
20 that we really discuss the individualized plan that we
21 have for the child. So, the parents are fairly aware of
22 what's going to happen. We have a few surprises usually
23 on the good, but we're fairly aware of where we think they
24 might land.
25 Q. On the ones that aren't good surprises and the

1 ones that don't score well do you see any changes or what
2 do you observe after you built them up and all the sudden
3 they get this failing test?
4 A. You know, honestly for the most part, I don't
5 know how many parents actually tell their own children. I
6 don't tell mine what their scores are. I have one I do,
7 because she's capable of, a couple of them are capable of
8 seeing what their scores are. And I have my 14-year-old
9 needs her pants kicked every once in a while saying see,
10 see, see. For the others I don't. I tell them they did
11 great, because they did. They made lots of improvement.
12 Q. All right. Do you ever -- I mean, have you in
13 the last three years have you lost students because of the
14 low grades?
15 A. No.
16 Q. And why would you say it is? With your talks to
17 parents and feedback why would you say these kids still
18 stay at your school?
19 A. You know, it's funny. We are very open with our
20 parents about the situation we're in right now and as
21 parents come through the door we tell them this is where
22 we're at. We are in hearings right now wondering whether
23 we're going to keep our doors open and we still have
24 parents coming and enrolling their children.
25 The reason being is they need help for their

1 children. They know that we can give it to them and
2 they're very aware of their children's weaknesses when
3 they come to our school. So, by the time that they get to
4 us they're pretty, for the most part, pretty -- have been
5 fighting a fight for their kids and they're pretty aware
6 of where they're at so they see us as an advocate and we
7 don't, we don't make any excuses.
8 If their test scores go down and I don't know
9 about it and their parents don't know about it and there's
10 a big surprise there we'll sit down and talk about what
11 may have happened and talk about what our plan is for the
12 next year to make sure that doesn't happen again. I can't
13 say I've had too many of those conversations.
14 Generally, parents are so happy to see that
15 there's been improvement and we've had enough
16 conversations for them to know, you know, they know that
17 this particular child isn't going to be a college
18 graduate. They just want to see them happy in life and
19 see them feeling like a confident learner. So our job is
20 and to, you know, and our goal is to get them up to grade
21 level or above and to see the brilliance that is
22 underneath that they don't show on a test score. So,
23 they're pretty aware and not too -- I mean, of course, we
24 all want our kids to be A students and, you know, do all
25 those great things, but these parents are pretty

1 reconciled to what their child is doing or how their child
2 is doing and they just want to see them happy and have
3 progress.
4 Q. With respect to the AIMS test -- well, first of
5 all, how many students of the 38 in your sixth, seventh,
6 and eighth grade would you say are at grade level?
7 A. On all subjects?
8 Q. However you think would be the best way to
9 answer this.
10 A. In math probably five, four or five. In reading
11 and writing, probably eight.
12 Q. And of your students how many students of the
13 38, how many are special education identified?
14 A. I have 11 IEP.
15 Q. And how many came to you below grade level?
16 A. Thirty-eight.
17 Q. Have they raised -- I mean, have they increased
18 more than just one grade every year, do you think?
19 A. Some have, some haven't.
20 Q. Okay. And do you think that the AIMS test,
21 which is the guiding market -- I mean, point for the State
22 Board of Charter Schools indicates how these children are
23 progressing?
24 A. It can't.
25 Q. Why?

1 A. It doesn't have a -- it doesn't have the right
2 measuring stick. Our children, our children progress, but
3 we don't use a yardstick to see the progression.
4 Sometimes we have to use a one-foot ruler and we're
5 measuring in inches instead of in feet, because that's how
6 they progress. Are they capable of doing more,
7 absolutely. But we have -- the state standards test can't
8 show that on the level on the way that it measures right
9 now.
10 Q. And is that just because it's just numbers?
11 A. Falls far below is a very big category,
12 approaches is a very good -- or a very big chunk, you
13 know, meets is a very big chunk. Within those chunks
14 children can improve, but not show it on the scores.
15 Q. Okay. If the school would be -- if the charter
16 would be revoked and the school would be closed what would
17 happen to your students?
18 A. Their parents asked me that, because they're
19 frightened. Show Low is a very small town, that White
20 Mountain area is a very small town. And in small town I'm
21 not talking about how many people are there. I'm talking
22 about the dynamics of a small town. Those children are in
23 our school for a reason. They didn't fit in the district
24 for whatever reason. They didn't fit. The one thing that
25 comes out a lot from the children that we don't even

1 address here is that they were being bullied, most of
2 them, in the district schools before they ever came to us,
3 because they're different in one way or the other.
4 Many of our children, I think, would be home
5 schooled. That's what parents are telling me. They can't
6 put them in the district. I've had some talk to me
7 privately and say what do you do with your kid if this
8 happens. If you're going to home school my kids, will you
9 home school mine. They don't want to put them back in the
10 district. Many of them will go back to a district. The
11 other charter school that's in town doesn't -- they have a
12 special education program, but from what I hear it
13 addresses special needs like the district does.
14 The district special ed person actually is a
15 friend of mine and we have conversations in the grocery
16 store about how she deals with her specialized students
17 versus how we deal with ours and basically they try to
18 dump them on the 301, you know, Title One kind of thing
19 rather than put them on an IEP so they don't show up in
20 their numbers. And many of our parents were frustrated
21 and that's why they came to us, because their children had
22 special needs and they weren't being addressed. They were
23 being exited out of their IEPs, because Show Low's numbers
24 were getting too high. They don't have the support within
25 the classrooms as far as, you know, aids and that sort of

1 thing that our classrooms have and they feel like their
2 children are lost through the cracks.
3 Q. How many students -- how many children do you
4 have in the school?
5 A. I have six.
6 Q. What are you going to do with yours?
7 A. I'll home school them.
8 Q. And that's because -- and how many years of
9 educational experience do you have?
10 A. Thirty.
11 MR. CONDOS: No further questions, Your
12 Honor.
13 ADMINISTRATIVE LAW JUDGE: Cross?
14
15 CROSS-EXAMINATION
16
17 BY MS. ANDERSON:
18 Q. What was the first day of instructions to
19 students at Jefferson Academy for 2013-2014 school year?
20 A. August 4th, I think. It's been a year.
21 Q. At the beginning of August of 2013?
22 A. At the beginning of.
23 Q. You testified on March 28 in addition to
24 teaching sixth, seventh, and eighth grade you're also
25 president of the governing board?

1 A. No, I'm vice-president of the governing board.
2 Q. Okay. Vice-president of the governing board.
3 And that you also work with the governing board as far as
4 making decisions for the school, correct?
5 A. Yes.
6 Q. Is the governing board decision making include
7 determining what curriculum will be purchased for the
8 school to teach math and reading?
9 A. No.
10 Q. Who makes that determination?
11 A. Kami Tate.
12 Q. So, then was it Ms. Tate's decision to purchase
13 new math curriculum for the 2013-2014 school year?
14 A. Yes.
15 Q. It was your testimony on March 28th that the new
16 math curriculum didn't arrive until October 2013, correct?
17 A. Yes.
18 Q. You testified on March 28th also about your use
19 of testing students using a, what you called a modified
20 BRIGANCE®?
21 A. Yes.
22 Q. How often are students tested with this
23 assessment?
24 A. This year three times a year.
25 Q. And are those in particular subjects?

1 A. Math and spelling.
2 Q. And is the BRIGANCE® used school wide at all
3 grade levels?
4 A. I believe so.
5 Q. You also testified on March 28th that you use
6 math assessment testing and some of the other reading
7 tests. What are those?
8 A. AIMSweb®.
9 Q. And how often are students tested with the
10 AIMSweb® assessment?
11 A. Weekly.
12 Q. And are the AIMSweb® assessments used school
13 wide at all grade levels?
14 A. Yes.
15 Q. Would you, please, refer to Exhibit QQ at
16 page 272. It was your testimony on March 28 that this
17 student has what you said is a tremendous amount of
18 absences. Has that absenteeism occurred throughout the
19 2013-2014 school year?
20 A. About the same time that I was testifying we
21 spoke with the mother and let her know that her son was at
22 risk of being retained and his absences have decreased.
23 Q. Okay. But that would have been in the end of
24 March 2014?
25 A. Yeah.

1 Q. But prior to that this student had --
2 A. Yes.
3 Q. -- a significant number of absences?
4 A. Yes.
5 Q. Did you place the student on an attendance
6 contract?
7 A. We did in March.
8 Q. How many students are in your sixth grade?
9 A. Eighteen.
10 Q. And how many in the seventh grade?
11 A. To do the math, I think there's 15.
12 Q. And in eighth grade?
13 A. Four -- um, there's seven. I have three of our
14 eighth graders that are actually attending in the high
15 school, even though they're eighth graders. They get the
16 same coursework it's just that they were 15 and 16 and had
17 been retained a lot at the district level. So, they are
18 receiving eighth grade coursework, but they're receiving
19 it within the eighth grade.
20 Q. Within the ninth glade?
21 A. Within that high school environment with their
22 peers.
23 Q. Okay. So, that would be -- is that three of the
24 four eighth graders?
25 A. No, that would be three of the seven. That's

1 why I'm --
2 Q. Oh, okay.
3 A. Do you see what I mean?
4 Q. In Exhibit QQ those are pertaining to your sixth
5 graders; is that correct?
6 A. No. This is sixth, seventh, and eighth.
7 Q. Okay. If we look at QQ on page 271 it indicates
8 the student's grade is six?
9 A. Yeah.
10 Q. And if I look on 271 it indicates the grade is
11 six?
12 A. Yeah.
13 Q. If I look through the remaining pages in Exhibit
14 QQ --
15 A. Oh, I see. Okay.
16 Q. -- they indicate those are all for grade six; is
17 that correct?
18 A. Yes, I see. Okay.
19 Q. With the students whose scoresheets are
20 contained in Exhibit QQ those are not scoresheets for all
21 18 of your sixth graders; correct?
22 A. Those are my phase students.
23 Q. These are your phase students?
24 A. Mm-hm.
25 Q. Meaning your full academic year students?

1 A. Yes.
2 Q. So, these are students that have been with you
3 since the beginning of the school year?
4 A. Yes.
5 Q. If we look at page 270 the notes there's, in
6 each of these there are typically notes written over on
7 the right-hand corner.
8 A. Yes.
9 Q. When were those notes written?
10 A. Um, prior to the hearing.
11 Q. Okay. Were the notes written in preparation for
12 the hearing?
13 A. Yes.
14 Q. How many of your sixth grade students are new to
15 Jefferson Academy this year?
16 A. I'd have to sit and think. I don't know. I'd
17 have to sit here and count for a minute.
18 Q. Okay. We have 18 students in sixth grade, are
19 there some that have attended Jefferson prior to this
20 year?
21 A. Yeah, probably about 12 of them are new.
22 Q. And for your seventh grade students how many of
23 those students are new to Jefferson Academy this year?
24 A. Um, probably about five.
25 Q. And your eighth grade students, how many of your

1 eighth grade students are new to Jefferson Academy this
2 year?
3 A. One.
4 Q. And there are -- your testimony on March 28th
5 that there are students in your class that have been at
6 Jefferson Academy since kindergarten, correct?
7 A. Yes.
8 Q. You talked about some of the techniques that you
9 used to kind of get the kids to relax a little bit before
10 the AIMS test?
11 A. Mm-hm.
12 Q. Those kind of techniques are not unique to
13 Jefferson Academy, correct?
14 A. No -- well, maybe the Macarena.
15 Q. Does Jefferson Academy have assessments that
16 allow you to monitor a student's academic progress from
17 year to year?
18 A. Not assessments, no.
19 Q. When you say not assessments --
20 A. We have portfolios.
21 Q. Okay. So, the portfolios reflect students
22 academic progress from year to year?
23 A. Yeah. Well, AIMSweb® will, yes.
24 Q. But the AIMSweb® is an assessment, correct?
25 A. Yes, sorry.

1 Q. And the techniques that you talked about that
2 you used to interest your students in the subject matters
3 using different techniques to interest students in various
4 subjects is not unique to Jefferson Academy, correct?
5 A. No, I don't think so.
6 Q. In terms of the AIMS results in the summer did
7 the AIMS results, test results first come to Jefferson
8 Academy?
9 A. Yes.
10 Q. And Jefferson Academy then mails them out to the
11 parents?
12 A. Yes.
13 Q. So, the results, AIMS results come to Jefferson
14 Academy prior to going to the parents?
15 A. Yes.
16 Q. You indicated that you've been open with parents
17 about the situation with the school being under notice of
18 intent to revoke; is that correct?
19 A. Yes.
20 Q. Did you advise parents that the Board, that the
21 Charter Board had issued a notice of intent to revoke the
22 charter of Jefferson Academy?
23 A. Yes.
24 Q. Did you tell parents the grounds for the,
25 alleged in the notice for the revocation?

1 A. Yes.
2 Q. Was this information contained on the Jefferson
3 Academy's website?
4 A. I believe so.
5 Q. And what was contained on the Jefferson
6 Academy's website is that the State Charter Board voted to
7 issue a notice of intent to revoke our charter due to the
8 fact that we have so many special needs students who don't
9 pass the AIMS test, correct?
10 A. I don't know.
11 Q. Okay. If I showed you a copy of a page from
12 Jefferson Academy's website would that refresh your
13 recollection?
14 A. I never saw the website. I was just aware that
15 they put something on it.
16 Q. Okay. But you don't know what information was
17 put on the website?
18 A. Just that they notified the parents or that we
19 notified the parents that there was an intent to revoke.
20 Q. Okay. But not the basis for the notice of
21 intent to revoke?
22 A. No.
23 Q. Have you explored for parents what options are
24 available to their students if Jefferson Academy closes,
25 other than home schooling them?

1 A. We have discussed with the parents that, you
2 know, the districts would be available for them.
3 Q. Okay. Is that the only other option that you
4 have discussed with parents?
5 A. That's the only option available.
6 Q. And what do you base your opinion that that's
7 the only option available?
8 A. We live in a small town. There's one other
9 charter school and there's the district schools.
10 Q. So, there was another charter school option?
11 A. Yes, I included that with district school.
12 MS. ANDERSON: I have no further questions.
13 ADMINISTRATIVE LAW JUDGE: Any redirect?
14 MR. CONDOS: Just a few, Your Honor.
15
16 REDIRECT EXAMINATION
17
18 BY MR. CONDOS:
19 Q. We focused a lot on reading and mathematics and
20 you were asked if you were giving a modified BRIGANCE®
21 test, does that cover other subjects besides reading and
22 math?
23 A. BRIGANCE® only covers spelling. It's just a
24 basic screener so that we can get them placed somewhat and
25 then we, then we administer the AIMS as well.

1 Q. Now, even though it seems like those are the
2 focus for most schools do you teach other subjects there?
3 A. Yes.
4 Q. Okay. What other subjects do you teach?
5 A. Science, social studies. I do a little music,
6 but that's not -- we do the basic subjects in the state
7 standards.
8 Q. You were asked who picked the curriculum. Do
9 all the teachers -- is there some method that teachers are
10 given instruction with respect to the curriculum?
11 A. Yes, we have trainings.
12 Q. And who usually conducts those trainings?
13 A. Kami Tate. Kami is our curriculum director.
14 Q. And with -- even though she's the primary person
15 who chooses the curriculum do the teachers have input in
16 what curriculum would be appropriate for their kids?
17 A. Yes, yes.
18 Q. What kind of input?
19 A. Well, we sit down -- we sat down as a group as a
20 staff and talked about the needs of our students, you
21 know, by grade level and discussed what kind of elements
22 we needed within a math program as far as especially a
23 reteach, a strong ability to be able to drill down to
24 specific, to be very prescriptive and that's why we chose
25 the curriculum that we did. She did all the research for

1 it and then gave us, us being the teachers, we talked
2 about the different curriculum that she found that might
3 work and we talked about, you know, which one we thought
4 would be the best. I guess, then we all did. I'm not, I
5 don't articulate well. That's what Kami does.
6 Q. Okay. And does that teaching -- I believe there
7 was testimony earlier that Fridays is usually sort of
8 teacher training day?
9 A. Yes.
10 Q. And does that curriculum teaching and other
11 teaching happen at that particular time?
12 A. I'm sorry, if I'm being distracted.
13 Q. And does -- is that when teachers are given
14 additional training or assistance --
15 A. Yes.
16 MS. ANDERSON: Objection; leading.
17 ADMINISTRATIVE LAW JUDGE: You can answer
18 the question.
19 A. Yes.
20 Q. Okay. Now, you were asked the question that
21 it's not unique that you have the techniques, you know,
22 the little physical techniques for the AIMS test?
23 A. Yeah.
24 Q. Okay. So, if it's not unique it seems like it
25 should be a pretty good practice then?

1 A. Yes.
2 Q. And you were asked the same question with
3 respect to the techniques in using, in teaching some of
4 the subject matters some of the items that you do and you
5 were asked if that was unique, and that wasn't unique?
6 A. Yeah.
7 Q. Okay. So, evidently, other schools have
8 realized that's a good teaching method?
9 A. Mm-hm.
10 Q. And now the final question is: Basically, you
11 informed all the parents as you're required to do?
12 A. Yes.
13 Q. And since this is not the largest school, have
14 you had conversations with, let's put it this way, most of
15 your parents or all your parents in the sixth, seventh,
16 eighth?
17 A. Yes.
18 Q. Personally?
19 A. Yes.
20 Q. And even though you've had conversations with
21 parents you're still getting those parents to stay with
22 the school?
23 A. Yes.
24 Q. They're signing up and new parents are still
25 coming to the school?

1 A. Yes.
2 Q. Okay. And are -- as the new parents come in are
3 they, are you informing them of the problems that we have
4 here with the possibilities of revocation?
5 A. Yes. And most of them I have to say, the ones
6 that I've spoken with were aware, but came anyway.
7 MR. CONDOS: All right. No further
8 questions.
9 ADMINISTRATIVE LAW JUDGE: Okay. Thank you
10 very much. Why don't we go ahead and break for lunch. Go
11 off the record at this time, back at 1:00 o'clock.
12 (Recess taken 11:43 a.m. to 1:07 p.m.)
13 ADMINISTRATIVE LAW JUDGE: We are back on
14 the record in Docket No. 14F-FSRV-002-BCS. Your next
15 witness.
16 MS. STILLMAN: Sheena Martz.
17
18 SHEENA GIA-MARTZ,
19 called as a witness herein, having been first duly sworn
20 by the Administrative Law Judge to speak the whole truth
21 and nothing but the truth, was examined and testified as
22 follows:
23 THE WITNESS: Yes, I do.
24 ADMINISTRATIVE LAW JUDGE: Would you,
25 please, state your name, spelling it for the record.

1 A. My name is Sheena Gia-Martz, S-H-E-E-N-A, G-I-A,
2 hyphen, M-A-R-T-Z.
3 ADMINISTRATIVE LAW JUDGE: Please, proceed.
4
5 DIRECT EXAMINATION
6
7 BY MS. STILLMAN:
8 Q. Ms. Martz, could you tell us a little bit about
9 your educational background?
10 A. Okay. I graduated from high school in
11 California. I went to the Pima Junior College for two
12 years and the University of Arizona for two years,
13 actually almost three.
14 Q. All right. And you --
15 A. I have bachelor's of science and I had a minor
16 in science.
17 Q. All right. And how about your teaching
18 background?
19 A. My teaching background. I taught preschool for
20 a couple of years before I got my degree. I had a home
21 school, a Christian home school for five years. And I
22 taught at a Christian Mission for five years. And I have
23 taught at Jefferson Academy for six years.
24 Q. And what is your position at Jefferson?
25 A. I'm the second and third grade elementary school

1 teacher.
2 Q. All right. How many second graders do you have?
3 A. I have eight second graders.
4 Q. And how many third graders?
5 A. Five.
6 Q. Of those eight second graders how many of those
7 are identified on IEPs?
8 A. On IEPs, I believe I just have one at this time
9 that's on an IEP. I have a second grader.
10 Q. Okay. And of the five third graders how many of
11 those are identified as special education students?
12 A. I have three.
13 Q. All right. Tell us what does your daily
14 schedule look like in your class?
15 A. Okay. We open with DOL or DOM as daily language
16 or math skills. We do that together. The kids are
17 allowed time to solve the problems by themselves then as a
18 class we correct and the kids actually give the answers
19 rather than me. We then -- well, we start off with
20 calendar skills, times tables skills, quiz skills. I'll
21 quiz them about math language from the previous couple
22 days on whatever we're studying. We have oral book
23 reports first thing in the morning.
24 I'm kind of doing this a little bit out of
25 order. I'm thinking. And then at about 8:30 we start our

1 math lesson. Our math lesson goes from about 8:30 to 9:45
2 and we teach, discuss, teach, and then practice together,
3 everybody practices together. Then they have independent
4 practice and they also have a page of homework that they
5 take home. That's, that's the -- then morning recess.
6 Then at 10:05 we start our Teach Your Children Well
7 Reading Program, we do that until 11:20 or so. And we
8 break up into specific reading groups from low to middle
9 to high and to enrichment. And so they get, on their
10 level they get reading instruction.
11 Okay. And then after lunch we will do language
12 skills, writing skills, I present a lesson. They go to
13 their tables. We'll do a practice together. Then they,
14 during the lab period then they are responsible for
15 producing part of a writing assignment that's due at the
16 end of the week on Thursdays. We will do a science
17 lesson, which also goes into lab time when we call labs.
18 So, I'll teach a short lesson.
19 We do what we call a close read. They have
20 highlighters. They're reading with us -- actually, they
21 do the reading now that they are able to read. They
22 highlight the necessary information. I'll kind of give
23 them notes to take and then they take that paper with
24 their worksheet and then they will do the worksheet on
25 their own showing that they know the information. We will

1 discuss vocabulary at that time and I critique ideas and
2 depending on what the social studies or science is, that
3 would be a time we would do experiments also.
4 Then we do -- then we go to labs. And labs last
5 from about 1:00 to 1:30, depending on if we've had
6 experiments, to 2:00-3:00 o'clock. That's when they do
7 their independent work. During this time where they're at
8 labs, which is pretty much independent work, they're at
9 centers and I will be tutoring and doing specific grade
10 levels at my table with students on mostly math, but
11 writing also.
12 Q. All right. At the beginning of the school year
13 what process do you go through to assess the student
14 levels?
15 A. Okay. The first thing I do is I go through the
16 files of the previous year teacher. If it's a returning
17 student I try to check the files. If I get a child from a
18 different, out of the district and kind of review that,
19 see where they are. Then I'll begin a battery of testing,
20 which is quite extensive to place them in each individual
21 category: Reading, writing, math, spelling, and see where
22 they are. And we take all that information put it in and
23 then I'll do individual interviews with the parents,
24 because I feel that's very necessary. They know their
25 child. We do an ILP process, which is individual learning

1 plans per each child and discuss what the parents' goal is
2 for the child and what we see as part of the goals for the
3 child, what we see that needs work. So, this will take
4 place within the first two weeks of school and we set up a
5 whole plan for that child.
6 Q. Is all the information that you collect through
7 this incoming process is that documented in some way?
8 A. Oh, yes. We have an ILP lesson planning sheet.
9 We write our notes, we write all our test scores, we have
10 the parents sign it, the child signs it. The child is
11 also included into these meetings to where there's nothing
12 hidden, you know. The child knows exactly what the
13 expectation is also.
14 Q. And then how frequently do you meet with the
15 parents to update them on their ILPs, on their individual
16 plans?
17 A. Okay. Formal ILPs are three times a semester.
18 That first quarter within the first couple of weeks of
19 school. Then we have one at the second quarter. Third
20 quarter it's not mandatory, however, most of us do it
21 anyway, because it's kind of a system that we go through.
22 We get to meet our parents more often. I call my parents
23 a lot. They come in and pick up their children so we are
24 having dialogue and communication almost all the time. We
25 do not wait, if there is a problem we communicate

1 immediately.
2 Q. All right. What form of assessment do you use
3 on a regular basis to determine progress that's being made
4 for students?
5 A. Okay. On a regular basis I do the AIMS
6 Computation Math test. I do the Concepts and Application
7 Math test on a weekly basis. I do, on the math -- we're
8 going to just do one category at a time -- I do chapter
9 tests and quick checks in the math. We're using Envision
10 math.
11 I also do, at the beginning of the year I will
12 do -- and I love this new tool that we have it's called a
13 diagnostic test. So, they're coming in from first grade
14 to second so I will give them the first grade diagnostic
15 test. Right away I know where their holes are, what they
16 don't understand and I start trying to fill those holes
17 right away. Same with second grade, I give them the
18 second grade. Now, I just administered the second grade
19 to the second grade and the third grade. So, by the time
20 the end of the year comes I know where we still have holes
21 or if we have holes.
22 Q. So, it's a pre and post test for over the course
23 of the year?
24 A. Right. Well, we have the diagnostic and the
25 year-end test. Seems like a lot of testing going on,

1 which is true, but the kids are really coming along,
2 they're getting used to it. They're starting to feel
3 comfortable. We do give them incentives to do their best,
4 because in the past we've had a lot of guessers. They try
5 to guess the answers and we keep trying to let them know,
6 you know, we know when you're guessing. Please, don't do
7 that. Let's try. I want to see your work. I want to see
8 your work.
9 Q. How long have you been using the AIMSweb® as a
10 form of weekly assessment? You said you've been at
11 Jefferson for six years?
12 A. Right. Boy, I know we've for sure been using it
13 for the last three years. My memory is not as good as it
14 used to be. I'm sure I used it since I've been there.
15 Maybe not as often as we do now, but we have used it all
16 along.
17 Q. All right. So, some perhaps increase in
18 frequency --
19 A. Right. Right.
20 Q. -- as time has gone on?
21 A. It's become more of a mandate that this is one
22 of the tools and instruments we're using.
23 Q. Okay.
24 A. We also do the testing, you know, practice
25 testing and teaching testing skills when we are doing the

1 AIMS practice test. So that's a tool, because we've got
2 the change in standards right now there's things on one
3 test that there's not on the other test and so we are
4 combining those also.
5 Q. Right. How do you use the results -- weekly
6 testing is very frequently, how do you use that
7 information to assist you in the classroom?
8 A. Okay. What I do when I have the test and it's
9 graded then it goes on to my desk. That's where I start
10 the individual tutoring and I can correlate the standards
11 with our math book and find the intervention to that and
12 then I create that. So, when they come to my desk I am
13 prepared for them and I start the intervention for the
14 ones that they were unable to do.
15 Q. So, that data is being used every week to impact
16 the instruction?
17 A. Every day, every day.
18 Q. All right. If you could look in the white
19 binder that I think is what's opened in front of you.
20 A. Uh-huh.
21 Q. Exhibit GG, which is page 168. It probably be
22 towards the -- it won't be that much further in front of
23 where you were at.
24 A. Okay. GG?
25 Q. GG.

1 A. 168?
2 Q. Yes.
3 A. Okay.
4 Q. Can you explain what this is?
5 A. Okay. This is our math computation starting
6 with the first testing in fall, in winter, and the, the,
7 okay, the difference in where they started and where they
8 were at the winter testing.
9 Q. Okay.
10 A. Okay. So, the red is the percentage of students
11 who were special needs students, Tier 3, they would get
12 more tutoring, they would get more one-on-one time with
13 me.
14 Q. Are they all necessarily identified as special
15 education students or does that just tend to --
16 A. No. No, not at all, because I have students in
17 my classroom who are not IEP or special education
18 students, who may be Spanish speaking. I have one who's
19 Spanish speaking who just has trouble processing the
20 language so he needs even more one-on-one time, because he
21 doesn't understand the language and what it's asking him.
22 And some of them, some of my students have severe
23 emotional disturbances in their life so they take, you
24 need to take more time explaining it to them, because
25 emotionally they're not connecting in the classroom. So,

1 if they have that relationship, one-on-one relationship
2 they, they do a better job.
3 Q. All right.
4 A. Let them know we care.
5 Q. With the fall, winter, and spring is this test
6 on grade level or where they are performing?
7 A. No, this is grade level.
8 Q. This is their grade level results?
9 A. Mm-hm.
10 THE REPORTER: Is that a yes?
11 A. That's a yes. Yes, this is grade level. So,
12 this is the benchmark testing.
13 Q. And then if we turn to the next page, page 169
14 does that accurately reflect the test results from fall to
15 winter for the Math Concepts and Applications?
16 A. Yes. And I can't explain it why they're doing
17 so much better in the Concepts and Application than they
18 are the Computation, but we've been really striving to
19 push the Common Core standards. So, we talk a lot about
20 the vocabulary. We talk a lot about the process. They
21 need to justify their answers and tell me how they, how
22 they found their answers.
23 So, now they're getting pretty proficient where
24 when they have a problem they can come back to me and tell
25 me, well, I knew to do this, because of this. And we have

1 them write it, we have them say it. And oftentimes I let
2 them be the teacher when we're correcting something so
3 that they get that experience to explain it to the
4 children. Then we do a thumbs up, thumbs down, and either
5 if you do not agree then you have to justify why you don't
6 agree.
7 Q. If you'd look at page 170 and 171 can you, are
8 those accurate results for the Math Computation and Math
9 Concepts for grade three that you've administered?
10 A. Right. Yes.
11 Q. And from looking at those results what can you
12 tell from that data?
13 A. Okay. The third grade in the fall -- the second
14 graders coming in had a low, very low understanding.
15 There was only, like I said, five students. So, out of
16 five students three of those students did not have a good
17 understanding of their second grade, what their second
18 grade math was about or could complete it accurately.
19 That was one of my biggest struggles is having so many not
20 understanding what they had learned or remembered what
21 they learned the year before. So, you can see the
22 improvement. We only had one student still outstanding by
23 winter.
24 Q. And do you know of those five students do you
25 recall were all of them students from the previous year of

1 Jefferson Academy or are they new students, what was the
2 composition of that group of five; do you remember?
3 A. I believe only one was new.
4 Q. Okay. Do you happen to know where in this
5 structure that one fell, if they were in the Tier 3, the
6 new student?
7 A. I'm trying to think, because she didn't come in
8 in the fall so she wasn't there. So, this was a student
9 that left and he was not -- the student that -- I'm sorry.
10 I'm really trying to remember. He came in from the
11 school, district school and they took him out around
12 Christmas. So, then my new student came in. So, it kind
13 of stayed the same. But no, the new student -- and he had
14 not been in our school the prior year.
15 Q. Okay.
16 A. Now, we had one that came in half a year in this
17 category, half a year into the semester so that he was one
18 of them. And he was with me all this year. However, he
19 had a devastating event in his life and, unfortunately,
20 still didn't make the progress that we would have liked to
21 and I believe he's the one at the top here, the
22 20 percent.
23 Q. Mm-hm.
24 A. So, I hope I'm explaining it well enough.
25 Q. That's fine. If you could take a look at page

1 172.
2 A. Okay.
3 Q. And I know all of the teachers marked their
4 recap sheets a little bit differently so maybe you could
5 explain how you, the data that's represented here on
6 page 172.
7 A. Okay. This is a second grade. Okay, we have
8 dates over here. I'm not familiar with this exact sheet.
9 Okay. So, second grade -- I keep my scores a
10 little bit differently. So, it looks like the students
11 started with like four correct on 11/4, moved up to like
12 eight on 11/11, and then moved up again to 11/25 at I
13 would say 17, and then ended up with an end score of 19,
14 19-points on the AIMS Concepts and Applications Math.
15 Q. All right. Let's look at page 173.
16 A. Okay.
17 Q. Did you prepare that?
18 A. You know, I believe I was out of town when we
19 did this particular sheet, but I'm familiar with it. Now,
20 it's coming back to me recalling. So, third grade,
21 student one, student two, um, starting -- these were my
22 low students, I believe, and how they progressed from the
23 beginning to where they are now on computation scores.
24 Q. Okay. Let's take a look at Exhibit HH, which
25 is, I'm sorry, page 175 and this is for reading grade two.

1 What information can you deduct or use from that data
2 that's presented there?
3 A. Okay. So, in fall when they came into my
4 classroom and they were tested for the first time
5 57 percent of my second graders could not read and were
6 considered Tier 3 students. I had one or two students
7 that could read at a first grade level -- no, less than a
8 first grade level. And then just like three of them who
9 could read, two or three of them that could read on second
10 grade level. They improved over time from fall to winter
11 to where 50 percent of them could read and then we have
12 one-third of them that were still, are still or were still
13 struggling, Tier 3 needed extra one-on-one.
14 Q. And the tiers are determined by a threshold
15 score of some sort?
16 A. Right. We do the program Teach Your Children
17 Well. We test them with Teach Your Children Well. We
18 teach -- we test them with AIMS, AIMS testing, fluency
19 testing, and comprehension questions. And then we do
20 individual one-on-one see, you know, if what might be the
21 problem with standing in the way. We also have support
22 from our reading specialist who helps us to determine
23 their special needs.
24 Q. If you can take a look at page 176. Is this
25 something that you prepared or did someone take your, use

1 your data to help chart this?
2 A. On these particular forms somebody used my data
3 to do this.
4 Q. Okay.
5 A. I was out of town at the time.
6 Q. Okay.
7 A. But it's taken from a log that I keep every day,
8 every day we do some sort of fluency. So, we took student
9 five and we gave the number, each student a number, second
10 grade. So, they would be usually with me at this case,
11 because most of my second graders are with me, not all,
12 but most. And it says they started on 11/11 at 35 words
13 per minute, okay, and that's halfway through the year.
14 So, they started much lower than that and then they're now
15 at like 83 words per minute. So, as far as understanding
16 this --
17 Q. There's kind of a break and then it picks back
18 up and it's lower down and closer to between 55 and 60.
19 Do you know what that would represent? Is that a new
20 story? A new -- what is the testing on that?
21 A. Right. It's a new fluency test. So, as we go
22 through the chapters of the book they can reach this
23 number on, you know -- so, let's just take fluency test
24 one. Then fluency test two they get to start, they'll
25 start at a lower number and work their way back up,

1 because you're adding sounds, you're adding new words,
2 you're adding new challenges.
3 Q. So it's a more difficult, it's progressively
4 getting more difficult?
5 A. Yes. Yes, more sounds, more letter
6 combinations.
7 Q. Okay. Why don't we, since you didn't prepare
8 these yourself I'm not going to take you through each one,
9 one by one, but how about if we look at Exhibit JJ, which
10 is on page 200.
11 A. Okay.
12 Q. And would you say that this accurately reflects
13 the results of the testing that was done in the area of
14 reading curriculum, base measurement for third grade?
15 A. Yes. Looks terrible, but it was kind of a slow
16 takeoff. With the new rigor in the classroom the kids,
17 our kids started feeling overwhelmed so we had to
18 consistently keep encouraging them and letting them know
19 that they could do this and that they shouldn't by afraid
20 of it, because a lot of our kids suffer from test anxiety.
21 So, when you put a clock on them and you start testing
22 them they're, they almost freeze up on you. When you have
23 a few students who are being looked at right now that are
24 on this scale who have been consistently very, very
25 methodical and very slow so you start timing them and they

1 start falling apart.
2 Q. Can you look at page 201 through 206 and tell us
3 if you think these scores accurately reflect the progress
4 of your third, looks like third grade students reading
5 fluency sheets?
6 A. Yes. It looks very -- I can almost identify the
7 student by the score.
8 Q. All right. When you started off the year and
9 you did the individualized testing to determine placement
10 how was that information used as far as, you know, you're
11 figuring out the skills for math, reading, areas of --
12 areas where they might struggle; how was that information
13 used in the instruction in your class?
14 A. I'm not sure what your question is.
15 Q. Okay.
16 A. How was it used?
17 Q. If you have a third grade student that isn't
18 working at a third grade level how is that addressed in
19 the classroom?
20 A. If I had a third grade student working at a
21 third grade level?
22 Q. Okay. Not working at grade level.
23 A. Oh, okay. So, we talked about the ILP.
24 Q. Right.
25 A. The lesson, individual lesson plan. So, we

1 would make the plan. We would determine on where to start
2 them and which venue to start them and then, of course, we
3 would have the tutoring, which happens every day. So, I
4 would take my intervention materials, I would place them
5 in a special folder for them so that when they come to me
6 I'm not only filling the hole that I have noticed in the
7 testing I'm also tutoring on that day's lesson, also. So,
8 then they may take some of that to the lab where I have a
9 teacher's aid or assistant who's doing more tutoring in
10 the lab so that they can get extra practice.
11 Some of the work that we're sending home the
12 parents are complaining that they don't understand and how
13 can we be giving the third graders such hard work and
14 we're like, well, we are teaching them and we are
15 practicing with them and if you would like me to sit down
16 with you I can help you with that.
17 Q. Okay.
18 A. So, we do use it on a daily basis.
19 Q. Right. With an integrated classroom having both
20 second and third graders in a variety of, you know,
21 competency levels how do you approach that through, in the
22 instruction? So, you've got a classroom of your second
23 and third grade sitting in front of you at all these
24 different levels where are you gearing your lesson towards
25 and how are you reaching all of them?

1 A. Well, I use the tier system quite a bit and when
2 I'm preparing materials I'll have maybe bigger print, more
3 pictures, a few less problems for my Tier 3. My Tier 1
4 will be doing the entire worksheet. They'll be doing more
5 peer work. My average students I go between those two
6 tables more often than not. If I have a teacher's aid she
7 will be helping occasionally, you know, the one or two
8 students that need that one-on-one constantly to keep them
9 going.
10 So, we're doing multitasking all the time. I
11 will have a group at table where I'm sitting at the table
12 and helping them through the steps, asking them, okay, do
13 you understand what the step means, what are we going to
14 do, how are we going to do this. Then I will move, go to
15 the next table, make sure my peer group is doing well.
16 Then when my peer group finishes they always ask me can I
17 help somebody else. I first check their paper and then
18 send them to another student who may be struggling. More
19 often than not, into that middle group, the average group.
20 So my peer group, my top, my green group, my Tier 1 will
21 go to the Tier 2 and help them and I'm helping Tier 3.
22 So, even though I'm moving around I'm checking and making
23 sure everybody is on. I'm usually spending a little more
24 time with that Tier 3 and using my peer tutors.
25 Q. When you do whole group instruction is it, do

1 you have standards for both the second grade and third
2 grade; how are you addressing those standards between the
3 two grade levels?
4 A. Well, we go over vocabulary for both. I
5 correlate the two lessons and make sure that there's some
6 correlation between the second grade book and the third
7 grade book. And I check to make sure that everybody
8 understands the first steps before grade two. That's
9 where it comes in really handy to have that intervention,
10 because I can address that intervention before we go to
11 that group.
12 Like, if we're studying fractions. So, I'm
13 already prepping my second graders in fractions before
14 they even get to the fractions that we're teaching in
15 third grade. So, that they understand one-half,
16 one-third, one-fourth, and it's not taking them by
17 surprise. You can walk into my classroom and you can ask
18 them which number is the numerator and everybody will know
19 what a numerator is. Everybody will know what a
20 denominator is. So, we talk a lot about the vocabulary.
21 Q. Okay. Do you turn in lesson plans on a regular
22 basis?
23 A. Yes.
24 Q. And do the lesson plans include alignment with
25 the standards?

1 A. Yes, we're required to do that.
2 Q. When you list the standards is it possible that
3 you address more than the -- is every standard that you
4 address in class necessarily listed on the lesson plan?
5 A. We try, but I, I would say I may miss some
6 sometimes, because we cover a lot of standards, you know.
7 When you're -- you can be covering language, language
8 standards while doing math, because we do so much
9 vocabulary and stuff I'm not sure that I've gotten that
10 down quite yet it being a new standard this year. I did
11 try my best, but I could have missed something.
12 Q. Right. As you set out your lesson plans for the
13 year you're setting out all the standards to align with
14 that, correct?
15 A. Right. Right.
16 Q. And then there are also additional opportunities
17 to incorporate the standards above and beyond what's
18 already on the lesson plan?
19 MS. ANDERSON: Objection; leading.
20 Q. All right, I'll withdraw that.
21 Over the -- well, let's see. On Fridays the
22 school started having no school on Friday, but used it as
23 a professional development day; do you remember how long
24 ago that was?
25 A. This year it's been every single Friday, almost

1 every single Friday except in the case of a holiday.
2 Q. Right. In previous years that wasn't always the
3 case that Friday was dedicated to that?
4 A. No. We've been doing that for about two years
5 now.
6 Q. Okay. And explain a little bit about how those
7 Fridays are used.
8 A. Well --
9 MS. ANDERSON: Objection; cumulative.
10 We've had prior teachers who have testified with regard to
11 what's happening on those Friday days.
12 MS. STILLMAN: They're suggesting that the
13 teachers aren't having input and each teacher has
14 opportunity to explain the input that's put into that,
15 whether or not it's listened to and addressed.
16 ADMINISTRATIVE LAW JUDGE: I'll allow it,
17 but let's keep it brief.
18 A. Okay. What we do is some of the main functions
19 is to try to learn different strategies, help each other
20 to learn different strategies. So, we go and we have --
21 let's say we have a child who's having an issue in math.
22 So we sit down, we put our issue out there, we talk about
23 it and then different teachers give different scenarios on
24 how they might handle it so that we can get different
25 ideas on what they use to help solve the same problem

1 elsewhere.
2 Q. Okay. Was the area of math an area of concern
3 in the last three years based on AIMS testing, the AIMS
4 test results?
5 A. The -- I'm sorry, can you repeat?
6 Q. Sure. Was math an area of concern for
7 instruction, an area that needed improvement based on the
8 AIMS test results?
9 A. Yes. I believe it was, yes.
10 Q. And has that been addressed through training and
11 professional development?
12 A. Absolutely.
13 Q. How has that been addressed?
14 A. It's been addressed by a two-year class at MLC
15 where we went and the State provided us with instruction
16 on how to instruct better, how to make it more standard
17 friendly and gave us a lot of situations where we could
18 learn how to better get the kids to perform. This new
19 justification, justify your answer, you know. So that in
20 the future we can meet those common core standards better.
21 They'll be more prepared and more confident. I think
22 teachers are feeling more confident.
23 Q. In talking with the parents of your students do
24 you have a sense of what they will do if the school
25 closes?

1 MS. ANDERSON: Objection; cumulative.
2 ADMINISTRATIVE LAW JUDGE: You can answer
3 the question.
4 A. I have some that are very disappointed, because
5 they feel because of our smaller classrooms, our training
6 in sensory issues, our training as far as getting to the
7 bottom line is going to be jeopardized and that their
8 children will be lost in the district schools. They won't
9 get the individual attention they have now.
10 Q. So, do you have a sense of whether they will go
11 back to the schools or the other school options that are
12 available in your area?
13 A. Yes. I think if we close, yes, they would have
14 to. Some of them are choosing home schooling or will
15 choose home schooling I've been told.
16 MS. STILLMAN: Okay. I don't think I have
17 any further questions.
18 ADMINISTRATIVE LAW JUDGE: Cross?
19 MS. ANDERSON: Thank you.
20
21 CROSS-EXAMINATION
22
23 BY MS. ANDERSON:
24 Q. You teach a combination third/fourth -- excuse
25 me -- second/third grade combination class --

1 A. I do.
2 Q. -- correct?
3 Okay. Is there also a first/second grade
4 combination class taught at Jefferson Academy?
5 A. Yes.
6 Q. And is there also a third/fourth grade
7 combination class at Jefferson Academy?
8 A. Yes.
9 Q. How is it determined which second graders go
10 into your class versus which second graders go into the
11 first/second grade combination class?
12 A. Okay. The way it's determined from my
13 perception is we look at maturity, ability level, and
14 parent concerns or wishes. So, if we have a child who is
15 struggling say at first grade level -- no, yeah, first
16 grade level, to put them into, if they're really
17 struggling and immature we would keep them in that one/two
18 class. If they're more mature and they can grasp, you
19 know, the total teaching of the second/third, they're a
20 little more mature or they have a better understanding
21 they will go into the higher class.
22 Q. So, the --
23 A. So, we look at several aspects.
24 Q. So, then as a second/third grade combination
25 class then do the second graders that are in your grade

1 have a better grasp of the material, subject material?
2 A. When they came into my class I did not feel like
3 they had a better grasp. They do now and they are
4 performing on grade level, pretty much all of them. I got
5 a couple that are IEP students that are not, but they're
6 moving up the ladder. They're getting that understanding.
7 Q. Okay. And you stated that of the second grade
8 students in your class only one of the students was new to
9 Jefferson Academy this year; is that correct?
10 A. Second grade class, no. That was third grade.
11 Second grade --
12 Q. Okay. For second grade how many students -- you
13 have eight students in your second grade, how many
14 students attended Jefferson Academy in first grade?
15 A. Okay. Okay. Well, I had two brand new students
16 from outside the district and the rest, I believe, were
17 Jefferson Academy students.
18 Q. So, six of the eight second grade students had
19 attended Jefferson Academy in first grade?
20 A. Yes.
21 Q. And it's my recollection that you testified that
22 of your five third graders that all but one had attended
23 Jefferson Academy the prior year?
24 A. Yes.
25 Q. If you could, please, refer to Exhibit GG at

1 page 172.
2 A. Okay.
3 Q. Just for clarification, did you -- for page 172
4 and 173, did you prepare these two documents?
5 A. No. I said I had not prepared them, that I was
6 out of town when we prepared these.
7 Q. Okay.
8 A. The information was taken from my logs.
9 Q. Okay. So, when was it then that these documents
10 were prepared?
11 A. Okay. These documents were prepared, boy, I'm
12 thinking that I went to a wedding the beginning of March,
13 they took the information from my logs that were running
14 logs.
15 Q. Okay. So, this -- is it your testimony then
16 that page 172 and 173 were prepared sometime in March?
17 A. Yes.
18 Q. And you said they took the information from your
19 logs. So, does pages 172 and 173 do not contain all of
20 the information contained, all of the assessment results
21 for your student, for these students?
22 A. No, it does not.
23 Q. And page 172 is that student a third grader or a
24 second grader?
25 A. Third grader.

1 Q. And the same for 173?
2 A. Yes.
3 Q. Now, on page 172 on the bottom left-hand corner
4 it says there is a -- the bottom row there's, it says,
5 "student," and then there's a one next to it?
6 A. Mm-hm.
7 Q. Is that the same student, is student one the
8 same student number one who's on page 173?
9 A. No.
10 Q. No?
11 A. No.
12 Q. So, the information contained on page 173 solely
13 pertains to one particular student?
14 A. Yes.
15 Q. Do you know whether the information contained on
16 page 173 pertains to the same student as the information
17 on page 172?
18 A. Okay, I'm sorry. I didn't --
19 Q. The student whose information is reflected on
20 page 172 --
21 A. Okay.
22 Q. -- is that the same student who's information is
23 reflected on page 173?
24 A. Are you asking me if they're the same student?
25 Q. Yes, I am.

1 A. No.
2 Q. Okay. So, the information contained in
3 Exhibit GG with regard to individual student performance
4 contains information on two of your five third-grade
5 students; is that correct?
6 A. I'm sorry, can you come again?
7 Q. You have five third-grade students, correct?
8 A. Yes.
9 Q. And the information contained in the Exhibit GG
10 on pages 172 and 173, the individual score sheets pertain
11 to two of those five students, correct?
12 A. Yes. Yes.
13 Q. Do you know how the determination was made which
14 students to include in these individual scoresheets?
15 A. It looks to me like they took one of my lowest
16 students and my highest student -- or wait. My two lowest
17 students. Two lower students. Well, actually there's
18 three students here. So, we took the struggling students,
19 that was my understanding of what we were going to do.
20 Q. So, the information contained on these
21 scoresheets pertain to information with your struggling
22 students?
23 A. Yes, my Tier 3 students in third grade.
24 Q. You stated that the math is called CAPS?
25 A. Mm-hm.

1 Q. Is what is CAPS?
2 A. CAPS is Concepts and Applications of math.
3 Q. Okay. So, the Math CAPS assessment is given
4 weekly; is that correct?
5 A. Right. We give one on one day and another, so
6 they get one of each, each week.
7 Q. The Math CAPS and the Math COMPs?
8 A. Yes.
9 Q. Okay.
10 A. Sorry.
11 Q. So, the information on page 172 reflects one
12 third-grade student's scores on math CAPS assessment given
13 on three dates in November of 2013, correct?
14 A. Correct.
15 Q. Page 172 doesn't reflect the student's
16 performance on math CAPS assessment for any other time
17 period, correct?
18 A. Correct. We have that information.
19 Q. That's not contained in this exhibit?
20 A. No. And I think that --
21 Q. Thank you, ma'am. You've answered my question.
22 A. Oh, okay.
23 Q. Thank you.
24 A. Sorry.
25 Q. On page 173 I'm confused about whether it was

1 your testimony that the information pertains to one
2 student or two students?
3 A. I'm sorry, it is two students.
4 Q. Okay.
5 A. Student one and student two. And I see the
6 confusion with the one and one on both pages. They're not
7 the same student.
8 Q. So, page 173 reflects the scores of student one,
9 a third-grader on --
10 A. I'm sorry, what page are we on?
11 Q. 173.
12 A. Okay.
13 Q. The scores of student one, a third-grader on
14 Math COMPs assessment given on seven dates between
15 October 28th, 2013 and February 24th, 2014; is that
16 correct?
17 A. Yes.
18 Q. And that page also reflects the scores of
19 student two, a third-grader on a Math COMPs assessment
20 given on seven dates between 11 -- or excuse me,
21 November 4, 2013 and February 24, 2014, correct?
22 A. Yes.
23 Q. And the AIMSweb® reading fluency assessments are
24 those all given to students weekly?
25 A. Yes.

1 Q. Would you, please, refer to Exhibit HH at page
2 176. Is student -- you indicate this is student five. Is
3 the student five on page 176 the same student five that's
4 on page 181?
5 A. I cannot answer that question honestly.
6 Q. And would that be the same for student six and
7 seven on pages 177 and 178 that --
8 A. Okay. 17 ---
9 Q. With regard to, on page 177 with regard to
10 student six then is it, would it also be your testimony
11 that you don't know whether that student six is the same
12 student six as on page 180?
13 A. That would be true. I'm not sure.
14 MR. CONDOS: Your Honor, if I could
15 interrupt for a second. We have the names if Ms. Martz if
16 we could give these to her that --
17 A. That might help.
18 MR. CONDOS: -- to assist her so she can
19 know which is which.
20 ADMINISTRATIVE LAW JUDGE: Well, if I can
21 just point out, looking at page 177 versus 180, they're
22 both student six?
23 THE WITNESS: Yeah.
24 ADMINISTRATIVE LAW JUDGE: But the chart is
25 different, correct?

1 THE WITNESS: One is AIMS fluency, one is
2 reading fluency, which one is Teacher Your Children Well.
3 I'm just saying I didn't personally make this out so I
4 don't want to be dishonest. So, I'm thinking this one is
5 AIMS. AIMS scores tend to run a little lower than Teach
6 Your Children Well, because they're more geared to the
7 sounds that they've already learned. So, I'm -- I don't
8 want to say I assume that I know. I'm just saying I don't
9 want to be dishonest. I'm just saying I'm not exactly
10 positive. I would say yes, but I don't want to be
11 dishonest.
12 And I just now saw -- I was trying to
13 figure out what they did here. They took my Teach Your
14 Children Well scores, which I keep a separate log than I
15 do on my AIMS log, and so they took the student -- and our
16 AIMS reading fluency runs a little lower, because it's a
17 cold read. They don't get to preview it at all before
18 they read. So, that then our Teach Your Children Well
19 they are allowed to work on it to reach that goal, that
20 fluency goal.
21 BY MS. ANDERSON:
22 Q. Okay.
23 A. Okay. I just had to gather that together for a
24 second. Now that I'm studying it more a little I can see
25 it.

1 Q. So, by distinguishing between pages 176 through
2 178 and pages 171 through 181 those are -- excuse me, 179
3 through 181, those are two different assessments, correct?
4 A. Yes.
5 Q. All right. The information here on these
6 scoresheets, individual scoresheets contained in student,
7 excuse me, in Exhibit HH pertain to three of your eight
8 second-grade students, correct?
9 A. Yes, that appears to be true.
10 Q. The AIMS test is not a timed test; is that
11 correct?
12 A. That is correct. May I interject something?
13 Q. No, thank you.
14 A. Okay.
15 MS. ANDERSON: I have no further questions,
16 Your Honor.
17 ADMINISTRATIVE LAW JUDGE: Redirect?
18
19 REDIRECT EXAMINATION
20
21 BY MS. STILLMAN:
22 Q. With the AIMS tests it's not timed, but are
23 there any time constraints that are put on the students?
24 A. Yes.
25 Q. And what would those be?

1 A. Okay. On the AIMS test itself they have to
2 finish within that day's period. Some of our students
3 really take a long time, because we have stressed, you
4 know, read, read again. So, oftentimes, they get tired.
5 So, we have to keep encouraging them to go and go,
6 sometimes beyond their endurance.
7 If you knew some of these children we have to
8 use special sensory materials and things to keep them
9 engaged and on task, because they're not able to sit in
10 their chairs a lot of the times, you know. We have to
11 offer them -- they can be kneeling at the table instead of
12 using their chairs. They might have to be, you know --
13 MS. ANDERSON: Objection, Your Honor.
14 Exceeds the scope of the question.
15 A. Okay. So, yes. We, we have to give them a
16 little bit longer time, which they get frustrated and then
17 we have to stop, maybe do some midline exercising and
18 stuff to accommodate them.
19 We also have the probes, which are eight-minute
20 tests. They are tested on an eight-minute test every week
21 on the two, the CAPS and the COMPs, which means that they
22 have a time constraint that they think they have on these
23 tests.
24 MS. STILLMAN: I don't have any further
25 questions.

1 ADMINISTRATIVE LAW JUDGE: Okay. Thank you
2 very much. Next witness?
3 MS. STILLMAN: We're going to check to see
4 if they're here.
5 ADMINISTRATIVE LAW JUDGE: Okay. We'll
6 take a brief break while we straighten this out so we'll
7 go off the record at this time.
8 (Recess taken 2:10 p.m. to 2:22 p.m.)
9 ADMINISTRATIVE LAW JUDGE: We are back on
10 the record in Docket No. 14F-FSRV-002-BCS.
11
12 SANDY STEWART,
13 called as a witness herein, having been first duly sworn
14 by the Administrative Law Judge to speak the whole truth
15 and nothing but the truth, was examined and testified as
16 follows:
17 THE WITNESS: Yes.
18 ADMINISTRATIVE LAW JUDGE: Would you,
19 please, state your name, spelling it for the record.
20 THE WITNESS: Sandy Stewart, S-A-N-D-Y,
21 S-T-E-W-A-R-T.
22 ADMINISTRATIVE LAW JUDGE: Please, proceed.
23
24
25

1 DIRECT EXAMINATION
2
3 BY MR. CONDOS:
4 Q. Sandy, you have a position with Founding
5 Fathers?
6 A. Yes.
7 Q. Okay. What is that position?
8 A. I am the Executive Director. I'm also the
9 charter holder.
10 Q. Okay. And how long have you been in that
11 position?
12 A. Since 2002.
13 Q. When it started?
14 A. When it started, yes.
15 Q. Sandy, what's your background in business
16 education?
17 A. My background when I first started charter
18 schools was in business when we started it. I had the
19 business background and my wife had the educational
20 background, along with another lady that was on the
21 original charter and a couple other people. I should say
22 I don't think they were actually on the charter. They
23 just helped in the process of designing it.
24 My background at that point in time was I was
25 finishing up a degree in business management with, earlier

1 I had started in accounting and kind of switched it over
2 to business management. Since that time I've attended a
3 master's degree in educational leadership, as well as I
4 would say I've done a lot more attending seminars,
5 workshops, trainings that between Arizona Department of
6 Education and other sources for education.
7 Q. Okay.
8 A. Let me -- I don't want to elude anybody. I
9 don't have a master's degree in educational leadership. I
10 completed all the courses, but there's a little glitch and
11 I have not obtained the degree yet. So, I don't want
12 anybody to think that I actually have a master's
13 certificate on my wall yet.
14 Q. Your truthfulness is appreciated.
15 What do you do at Founding Fathers?
16 A. Ultimately, I'm responsible for everything. I
17 can't do everything so I, my job is to assign out the
18 different responsibilities to different people to achieve
19 the things that need to be done to run a charter school.
20 Do you want me to go into further detail on that or?
21 Q. If you think it's, you know, it's necessary.
22 A. Well, I think it would be helpful.
23 For instance, being a small school -- I mean, a
24 large district has a superintendent and even
25 vice-superintendents, and principals, and vice-principals,

1 and a whole menagerie of support systems, and as a small
2 school we don't have the resources to do that. We have a
3 lot of the same obligations. I should say compare us to a
4 large charter school, because charter schools and district
5 schools have some very differences in some of the actual
6 business part of it.
7 But when we begin I, me and Janice kind of
8 shared the principal aspect, but I didn't have a very good
9 educational background so I recognized that so I pretty
10 much shoved that over on Janice, and if she was teaching
11 it was overload. And as the years went on we, I
12 recognized that in looking for somebody with our
13 philosophy that we could use as the principal, use more
14 that had educational background that could be working with
15 our staff on a full-time basis and not as a part-time
16 basis, because Janice was in the classroom all the time
17 and that's where Kami Tate came in. We hired her, I
18 think, about five years ago as a teacher and as we
19 recognized her capabilities that she had that we felt like
20 we didn't have, which she was articulate and she was more
21 organized and more educational based on the finer points
22 and putting it all together. So, in the process we kind
23 of moved her and defining terms, in the charter world we
24 use different terms most of the time. We don't use
25 superintendent. Some charters do, but we use the word

1 Executive Director. And we use the word mentor for
2 teacher, and we use the word mentor-teacher, and
3 teacher-mentor, and it's kind of confusing, but basically
4 we wanted our teachers to be mentors to our children so we
5 used the word mentor. We use the word teacher now just
6 because it gets kind of confusing to parents.
7 On my end, as I -- watching the school grow and
8 the challenges that we have and have had in the past and
9 currently have, we got bigger and we're getting these kids
10 with these special needs and we, we had an excellent
11 school psychologist, a gentleman that had 50 years in
12 education and worked as an Associate State Superintendent
13 back when they only had the superintendent and I think
14 there were three or four associates many years ago. And
15 he had a degree in psychology and he was -- as we
16 attracted these students we realized we needed a lot of
17 help in dealing with them effectively. That wasn't our
18 original -- our original plan. Our original plan we
19 wanted to be one of these, in fact, our name states
20 Jefferson Academy of Advanced Learning. That was shot
21 down about the first year we hit when we started
22 attracting all these kids that were way low and having
23 struggles and emotional issues.
24 But over the time when we brought Kami in I
25 realized that she was a person I wanted to be like the

1 principal, the person to interact with my teachers, to do
2 their evaluations, to monitor the classrooms, because I
3 felt like her philosophy was very close to ours. Janice
4 is very, very good with children in sitting down and
5 anticipate and being able to determine what's going on in
6 their lives and I don't mean what's going on at home, but
7 the makeup of the child and being able to reach in and
8 touch the children at their level.
9 MS. ANDERSON: Objection, Your Honor. I
10 think we've exceeded, we've been exceeding the scope of
11 the question.
12 A. Okay.
13 Q. I'll put another question in front of you.
14 A. I beg your pardon.
15 Q. That's okay. Now, how many -- how many
16 students, roughly, do you have over there at Founding
17 Fathers?
18 A. Currently around a hundred and fifty.
19 Q. Okay. And how many special education students
20 do you have?
21 A. I'm going to say, approximately, around 40.
22 Q. Okay. And are the rest of the students at grade
23 level or below grade level?
24 A. We have students that are at grade level. You
25 know, that's a big question for the sense that if you talk

1 about grade level you can't -- if you, if you include all
2 the subject matters there's a very few that are grade
3 level clear across the board. Most of the time you'll
4 have a student that can do well in the language arts, but
5 struggles in math. So, I'm going to base my references on
6 the beginning of the year.
7 Q. Sure.
8 A. Because honestly we, the AIMS testing is really
9 what determines, as far as anybody is concerned, where our
10 students are. We have our assessments that can tell us
11 were they passing the curriculum or they're up to standard
12 with the curriculum.
13 And based upon those assessments I would say in
14 the lower grades we probably have, when I say lower grade
15 I'm going to say K through five, I would -- and this is a
16 guesstimate. I would guess we're probably at 75 percent
17 of those students who are performing at grade level now.
18 When they came in I would say we were probably around 25
19 percent.
20 From our grades six through twelve, when those
21 kids came in and math was their biggest one, but reading
22 and reading wasn't too far behind, but in math we probably
23 had three, maybe four kids that were at grade level.
24 Q. Okay.
25 A. In the junior high, maybe five. In the high

1 school maybe one.
2 Q. Okay. Now, back when we started, the State
3 started giving grades to the annual testing they didn't
4 use letters they used performing, performing plus, and in
5 2007 were you a performing school?
6 A. I think so.
7 Q. If the documents we've received from them say
8 that would that be a good indication?
9 A. That's a good indication. I wouldn't argue with
10 you.
11 Q. In 2008 you were a performing plus school; would
12 that be accurate if that's what they reflected?
13 A. If that's what they say I wouldn't argue.
14 Q. In 2009 you were a performing plus school;
15 again, is that your understanding?
16 A. That's my understanding, yes.
17 Q. Okay. And then in 2010 you were performing and
18 then the bottom fell out. And when I asked Mrs. Stewart
19 what she could pinpoint it to she referred it to the
20 pediatrician for being happy with the school and sending
21 more of some of the students that she was running into.
22 Would you agree with what Mrs. Stewart said?
23 A. I would agree with that. I wouldn't say that
24 was the only reason.
25 Q. Okay. What other reasons?

1 A. Student increase, and it wasn't just the
2 pediatrician. The word was known and schools when they
3 had a child that was difficult to deal with in the younger
4 grades, again K-7 I would say. They -- we had a lot of
5 referrals from the schools, not the administration, but
6 teachers or maybe, maybe sometimes a principal. We knew a
7 couple of the principals personally and they would just
8 call us up and tell us, hey, the kid is coming your way
9 and this is his problem, good luck basically kind of
10 conversation.
11 Other things were I was talking about our school
12 psychologist, I'll say his name is John Potts, started to,
13 he had struggled with cancer and beat it and it came back
14 along with some other health issues. In fact, I believe
15 we've had three years previous past years where, where,
16 where he was at.
17 I think a couple things. One of the things that
18 first started is as the kids got, as we got bigger we also
19 challenged with Janice being in the classroom more and not
20 being able to train our teachers and teacher turnover and
21 not being able to train our teachers as well as we needed
22 to. And this was -- and so we had kids coming in and
23 teachers not being able to give them the support that they
24 needed to deal effectively with it. Kami was a teacher at
25 that time.

1 And so, we had new teachers, not enough support,
2 some poor health situations, Dr. Potts wasn't able to
3 support as well. And beginning of the year 2010 and
4 '11 -- wait a minute. I'm thinking, '11-'12 was last
5 year -- no. '12-'13 was last year. This is '13-'14,
6 isn't it? Okay. It was. It was '11 and '12 that, that I
7 became keenly aware that we needed some changes to make,
8 some serious changes, because --
9 Q. And what changes did you undertake at that time?
10 A. At that time we put together a plan in part upon
11 what the State Charter Board requested a performance
12 management plan.
13 Q. Okay. Let me stop you for a second. Because
14 you had the first D the State Board for Charter Schools
15 asked you to say what are you going to do about that?
16 A. I believe that's how it went. The timeline --
17 Q. And did someone come out or did you meet with
18 some people from the State Board for Charter Schools back
19 in 2012?
20 A. Leo, I don't remember the exact times. I know
21 that we've had visits from the State Charter Board.
22 Sometimes it was for a five-year review, sometimes for a
23 ten-year review. I know that DeAnna came out with a group
24 and I think it was more along the performance management
25 plan. Is that --

1 Q. You can't ask her.
2 A. Okay. I don't remember exactly the timeframe of
3 exactly what it was, but I think it was after we submitted
4 the performance management plan.
5 Q. So, you prepared, at the direction of State
6 Board for Charter Schools you prepared a performance plan
7 and submitted it?
8 A. That's correct.
9 Q. All right. Did you get any feedback on the
10 performance plan, was it approved or what happened to
11 that?
12 A. Honestly, the first time we submitted it, it
13 wasn't sufficient so it wasn't approved so they kicked it
14 back. And we were more thorough with it in our
15 articulating it and we submitted it and it was approved to
16 my best recollection.
17 Q. Okay. Did you follow the performance plan?
18 A. Yes.
19 Q. Okay.
20 A. However, it was a plan. We had goals they set
21 it for and we did not meet all the deadline dates on it,
22 but we were doing the best we could with the resources
23 that we had.
24 Q. And is that the time when you were talking about
25 doing some changes at the school was that working together

1 at the same time that you had submitted a performance
2 plan?
3 A. It was.
4 Q. Okay. Then when you received the third -- well,
5 you received a second D with low assessments the year
6 before, let's see, 2012 -- 2011-2012, I believe it was.
7 And what action, I mean, did you take to try to -- I mean,
8 what did you get out of the test and what action did you
9 try to take to enhance your students?
10 A. At that point in time we had been looking, we
11 knew we needed a new math curriculum and we had been,
12 "we," mostly Kami had been looking and researching. We
13 had been using AIMSweb® and we wanted something that when
14 we used the AIMSweb® probes it would directly correlate
15 with our curriculum. And so, Kami got with Pearson and
16 she looked at some of the samples they sent. She found
17 the one she really liked and she and I talked about it.
18 We put it before the teachers and showed them, had the
19 Pearson come out and do a presentation on it and it may
20 have been a webinar. I honestly don't remember. But they
21 did a presentation on it, on the different benefits. The
22 teachers were excited and we were excited in how it
23 correlated with things. So, we decided that's what we
24 were going to go with.
25 We were a little low on funds. We told them we

1 wanted it, but we were going to have to wait until we got
2 some more funds in. And I believe it was around in June
3 that we were able to say we got to, we're going to get
4 this. We didn't have all the funds right then, but they
5 said well, we're kind of out of some of the stuff we'll
6 start sending it to you as we get it. Kami, at that point
7 in time she goes, Sandy, I want to wait till we get it
8 all, because I don't want this scattered throughout
9 everybody and then we not have a complete program. So,
10 she held on to it. She kind of -- we were using the
11 current math curriculum, which was really kind of a
12 hodgepodge thing and it was somewhere I think the end of
13 September, first part of October we finally got where we
14 felt like we had enough complete pieces.
15 This is the beginning of -- I may have skipped
16 to your -- I'm actually talking about this last year
17 coming into the school year.
18 Q. All right. Well, you took some steps with
19 respect to mathematics and this new --
20 A. Right.
21 Q. -- Pearson math program was received in
22 2013-2014?
23 A. Right, right. The year before I had enrolled --
24 we had an auction, because of our D label, I believe. I
25 never -- I can't say that for sure. But I believe it's

1 Navajo County had worked with NAU and Intel Math to get a
2 math. They called it, it's MLC and I can't think what
3 that stands for. It's an acronym for something that Intel
4 had put together.
5 And it was a two-year process and the first year
6 was after the school year of '11-'12 and that summer we
7 went to it, our teachers went to it, myself and Kami both
8 went to it also. And then it continued throughout the
9 next that following school year and into a summer and
10 actually even into this school year. And that was
11 training teachers.
12 And basically what it did was it taught the
13 teachers how to dig deeper into the student's work. You
14 take a student's work and you don't just mark it wrong if
15 it doesn't have the right answer. You look at the work
16 and analyze what's the student struggling. So, that was
17 good training.
18 Q. So, you took the class first and then put the
19 math program into effect?
20 A. Right.
21 Q. Okay.
22 A. When we got the math program implemented and
23 started it this year.
24 Q. All right. Now, and Kami wanted to have
25 everything roll out at the same time?

1 A. That is correct.
2 Q. There's been a lot of testimony about Friday
3 meetings for the teachers.
4 A. Yes.
5 Q. When was that first implemented?
6 A. We implemented that last year. We, went to a
7 four school -- four-day school week for the students so we
8 could use Friday, because with the challenges that we had
9 with all the students we and, you know, trying to use best
10 practices and figure out what would work for the students.
11 So, we started that last, excuse me, last school year.
12 Q. Why did you do that?
13 A. Well, our test scores were low. We knew we had
14 these challenges and we had to do something to help our
15 teachers be more effective for those students.
16 The teaching pool we don't have a huge choice of
17 teachers up there. It's pretty tough for -- I mean, a
18 teacher typically it's a second job. I mean, there's a
19 married couple you have a husband and wife work and
20 usually the wife has to kind of follow the husband with
21 the teaching, but anyway.
22 So, our teachers needed more help in working
23 with these students, because very few teachers up there
24 could deal with these students and that's why we were
25 getting them and we were having to try to figure out how

1 to be more effective.
2 Q. Okay. Now, there came a time when the
3 representatives from the State Board for Charter Schools
4 came up to the school as a result of the most recent, the
5 third D, I believe, which turned into an F. Do you
6 remember the representatives from the school coming up?
7 A. Yes.
8 Q. Okay. Do you remember who was present, if you
9 can?
10 A. There was Martha Morgan and then there was a
11 young lady that I can't remember the name. I remember
12 Martha's name, but there was a young lady that testified
13 back in March and --
14 Q. Now, prior to their coming up there were you
15 asked to provide some additional information over and
16 above the performance management plan?
17 A. Yes, we were.
18 Q. Okay. Did you put together documents that you
19 felt complied or satisfied those requirements the first
20 time?
21 A. We put together what we thought they were asking
22 us.
23 Q. Okay.
24 A. Yes.
25 Q. All right. And then when the group with Martha

1 Morgan came up had you received any notification that
2 said, you know, we need some additional documents or
3 additional clarification?
4 A. Um, we did receive a notice that what we -- I
5 don't remember the exact timeline, but we received saying,
6 kind of a scoring sheet that said that what we submitted
7 was insufficient.
8 Q. Okay. And did that scoring sheet or whatever
9 you received did it detail areas that they needed some
10 clarification on?
11 A. It had a rubric with it, but we had a hard time
12 trying to determine exactly what, and I don't know if that
13 rubric is in here, but as I read it was, it kind of, it
14 seemed very subjective to an opinion like, it doesn't
15 clearly demonstrate. And to me it was like, well, what
16 clearly demonstrates, what kind of document would that be?
17 And that's where I felt like it was lacking with some
18 direction and what would clarify it.
19 Q. But when they came up did you provide them with
20 additional documents that you thought were what they
21 needed?
22 A. Yes.
23 Q. Okay. If I can refer you to the black book, I
24 believe, and No. 1G.
25 A. Hang on a second. What was the number again?

1 Q. 1G as in "go."
2 A. 1G that would be the first section.
3 Q. Yes. And it's page 78.
4 A. Okay.
5 Q. And that has a title on it of, "The
6 Demonstration of Sufficient Progress Evidence Reviewed at
7 the Site Visit," and it refers to the date of
8 November 20th of 2013. Is that about the time that the
9 second group or the most recent group of the staff came up
10 to see the school?
11 A. I believe so, yes.
12 Q. Okay. Now, first of all, did the staff -- you
13 gave them a considerable amount of documentation at that
14 time; is that right?
15 A. That is correct.
16 Q. Okay. Did the staff that was there did they ask
17 to see the school or see any of the classes at that time?
18 A. No.
19 Q. Okay. Did they mention anything about looking
20 at the teacher operations or anything with respect -- the
21 students, anything with respect to the operation of the
22 school as it was operating at that time?
23 A. Not other than documentation.
24 Q. Okay. Now, in the documentation it says that
25 with respect to individual learning plans you or the

1 school provided sample ILP forms for K-8 and 9-12 and
2 provide a sampling of completed plans for specific
3 students.
4 Now, did -- at the time that you provided those
5 did anyone raise any questions with respect to the
6 sufficiency of them?
7 A. As I remember there were no questions really.
8 It was -- other than is there anymore, anything else you
9 want to give us. I don't remember them questioning about
10 the actual information being given.
11 Q. Okay. As you review it also says, "Completed
12 student goal sheets," in the next box down, and it says
13 that you provided them for grades K-8. Most of the
14 student goal sheets demonstrated weekly improvement for
15 reading sound fluency, word fluency, letter fluency,
16 comprehension, some math computations based on the probes
17 for AIMSweb®. And did anybody ask you for any additional
18 information or raise any questions about those?
19 A. I don't recall any specific request for that
20 particular, for completed student goal sheets.
21 Q. Okay. Now, if you'll look over there on the
22 right side the evidence requested is on the left and the
23 items provided is on the right. As you look down this do
24 you believe that this is -- and also on page 79, do you
25 believe that this is fairly accurate as to what you

1 provided to them when they came up to visit you?
2 A. Yes, I do.
3 Q. Okay. Now, at the time they visited you did any
4 of them raise any questions about your operation?
5 A. Other than requesting documentation, no.
6 Q. Okay. And did -- and, excuse me.
7 Were any of these documents challenged by any of
8 the staff as not being sufficient or inaccurate?
9 A. I don't remember that, that being so.
10 Q. Okay. So, did they leave you with an impression
11 as to whether or not you fulfilled the requirements that
12 they were asking for to document what they were asking
13 for?
14 A. Yes. We were, we were totally wondering what
15 the results of the visit was.
16 Q. And then there's been testimony like within the
17 next 48 hours some additional documentation was sent to
18 them?
19 A. Yes.
20 Q. What kind of documentation was that?
21 A. Well, I don't remember exactly. I know that
22 Kami pulled some things together and requested that some
23 people, several people, I believe, scanned it and e-mailed
24 it in, but I couldn't tell you.
25 Q. Was that at the request of the State Board staff

1 or was that just to supplement what they had already been
2 given?
3 A. That would be to supplement what they were
4 already given and they told us we had 48 hours if we felt
5 like there was things that we didn't give them, at least
6 the one and two. And I think there was a couple of pieces
7 of evidence that we cited, but we couldn't find it right
8 at the moment. So, that's kind of what --
9 Q. Now, after you sent that back down to, the
10 supplemental information to the State Board for Charter
11 Schools and the staff did you ever receive any phone call
12 or contact from anybody at the State Board saying that any
13 of the documentation was deficient?
14 A. I believe we got another --
15 Q. Prior -- yeah, prior to your receiving the
16 hearing notice that you needed to appear, too.
17 A. I think we got another statement that basically
18 like when you sent in the first documentation with the
19 rubric with the scoring saying it was insufficient. I
20 could be wrong about that. It seems like we got two of
21 them.
22 (Interruption at the door.)
23 Q. Okay. Now, I originally just said 78-79, but in
24 actuality it's also page 80 and page 81 of items that you
25 provided to them; is that correct?

1 A. Yes.
2 MR. CONDOS: Okay. Judge, I think we could
3 take -- if it's okay with you we could let Mr. Stewart
4 stand down and take Ms. Walker?
5 ADMINISTRATIVE LAW JUDGE: Okay.
6 MR. CONDOS: We told her 3:00 o'clock and
7 she almost timed it perfectly.
8 ADMINISTRATIVE LAW JUDGE: I'm sorry, I
9 missed her name?
10 MR. CONDOS: Rebecca Walker.
11
12 REBECCA ANNE WALKER,
13 called as a witness herein, having been first duly sworn
14 by the Administrative Law Judge to speak the whole truth
15 and nothing but the truth, was examined and testified as
16 follows:
17 THE WITNESS: Yes.
18 ADMINISTRATIVE LAW JUDGE: Would you,
19 please, state your name, spelling it for the record.
20 THE WITNESS: Rebecca Anne Walker,
21 R-E-B-E-C-C-A, A-N-N-E, W-A-L-K-E-R.
22 ADMINISTRATIVE LAW JUDGE: Please, proceed.
23
24
25

1 DIRECT EXAMINATION
2
3 BY MS. STILLMAN:
4 Q. All right. Ms. Walker, can you tell us what
5 you -- you live in -- where do you live?
6 A. I live in Show Low, Arizona.
7 Q. And what do you do in Show Low?
8 A. I am a Director of Practice Management for
9 Summit Healthcare Medical Associates.
10 Q. And how are you -- are you familiar with
11 Jefferson Academy of Advanced Learning?
12 A. Absolutely.
13 Q. And how are you familiar with Jefferson Academy?
14 A. My three children have been going there for the
15 past five years.
16 Q. How old are your children?
17 A. Fourteen -- actually 16, 14, and 12.
18 Q. And so they have not attended Jefferson Academy
19 the entire, for their entire educational career; is that
20 correct?
21 A. Not in Show Low. Yeah, that's correct. We did
22 Show Low Elementary for the first two years when we were
23 there. We moved there in '06.
24 Q. Okay. And what prompted you to change from Show
25 Low Elementary to Jefferson Academy?

1 A. I felt Show Low Elementary wanted a, I call it a
2 cookie-cutter kid. My oldest is autistic and when they
3 couldn't get him to focus and do any kind of educational
4 participation they would let him wander the halls
5 unsupervised and that's not acceptable to me. He has a
6 right to an education just like anybody else even though
7 he's special.
8 Q. And how did you find out about or hear about
9 Jefferson Academy?
10 A. Their pediatrician at the time Dr. Thomas
11 Barella recommended it.
12 Q. And did you go and meet with, meet with the
13 people at Jefferson Academy?
14 A. I did. I did.
15 Q. And what was it about Jefferson Academy in
16 addition -- was there anything in addition to the doctor's
17 recommendation that made you choose Jefferson Academy over
18 perhaps some other choice in town?
19 A. I liked the specialized attention they received
20 there. It seemed like they tailored the education to meet
21 the needs of the child not vice-versa. I feel like in a
22 public school setting the children have to meet the needs
23 of the education system and they kind of get swept under
24 the rug and to me, Jefferson is specialized for special
25 needs kids and they really do have a great program that is

1 tailored to their needs and their educational needs as
2 well. My oldest son has flourished, all three of them
3 actually have done quite well.
4 Q. So, your oldest son the 16-year-old was at the
5 time 11?
6 A. Yes.
7 Q. And what were some things, educationally how was
8 your son performing, if you can remember, back five years
9 ago prior to Jefferson?
10 A. He, I think at the time of being at the age of
11 11 he was not even barely kindergarten grade level.
12 Q. And how is he doing now?
13 A. He is almost at grade level. I'd say he's
14 probably a grade behind. So, absolutely tremendous
15 progress that he's made there.
16 Q. What are some of the adjustments they've made to
17 assist him in making those advances?
18 A. They have provided him a one-on-one aid that he
19 has to assist him at all times in the classroom. He is
20 allowed to have things specific to him. Like, they will
21 let him at intervals kind of take breaks. They don't push
22 him. They really do look at him on an individual and find
23 the different things and triggers for him that help keep
24 him focused.
25 He's, he likes to pace and talk to himself a lot

1 and Mr. Reidhead has done an absolutely tremendous job at
2 finding special unique things that help get Byron engaged
3 in the learning experience. They allow him to do a lot of
4 word processing, a lot of functions on the computer, which
5 is something that has tremendously helped Byron. The
6 one-on-one aid has helped him tremendously. He's, he's
7 just allowed to be himself and still he is maintaining "A"
8 average. I mean, he's a great student. I just, I can't
9 say enough about that school.
10 Q. What was, what were his grades like when he was
11 before Jefferson Academy?
12 A. Failing. Every single subject failing.
13 Q. And what was his -- how was he doing socially?
14 A. Non-existent. He had no friends. He was not
15 able to socially -- he didn't have any friends. He didn't
16 socialize at all. They would just let him wander around
17 without supervision. They would let him, you know, at
18 recess time he would be back towards the fence and pacing
19 and talking to himself, but nobody tried any ways of
20 engaging him at all.
21 Q. And what are his social skills at present?
22 A. He has a couple of friends that he actually
23 socializes with outside of school. He socializes with in
24 school. He has also become kind of a champion for those
25 that, you know, are maybe have more difficulties than he

1 does and he actually recognizes that now and he actually
2 will make an attempt or an effort to help other children.
3 Q. Your second, your middle son is now 14, so was
4 approximately nine?
5 A. Yeah, that's Andre.
6 Q. Did he transfer at the same time as your older
7 son?
8 A. Yeah, that's Andre.
9 Q. Okay. And what was his school life like prior
10 to Jefferson Academy?
11 A. Failing most subjects. He had some behavioral
12 issues and they would send him home instead of trying to
13 work with me and trying to work with him. They almost
14 tried to expel him from school for some of these behavior
15 issues without trying to address them, without trying to
16 counsel him. They kind of labeled him as the bad kid and
17 we're getting ready to write him off and kick him out of
18 school.
19 Q. How is he performing academically?
20 A. Absolutely fantastic. He's a B/C average. He
21 gets his work done. He isn't a model student. He's a
22 model student probably 80 percent of the time, versus
23 before he probably had disruption levels 100 percent of
24 the time.
25 Q. So, you'd say prior to Jefferson Academy he was

1 having daily episodes or --
2 A. Yes, absolutely daily. I was on a first-name
3 basis with the principal and that's not a good thing.
4 Q. At Jefferson Academy how often does he have
5 these same type of episodes?
6 A. Very rare. I'd say every few weeks, two to
7 three weeks.
8 Q. And do they send him home as a result of those
9 episodes?
10 A. No, they do not. He, I think at Show Low
11 Primary it was almost a reward for him to misbehave,
12 because he would get sent home and that's probably what he
13 wanted.
14 Q. Socially were there any issues socially when he,
15 prior to Jefferson Academy?
16 A. Yes.
17 Q. And what were those?
18 A. He had a lack or inability to make friends,
19 because of behavioral issues and his frustrations with the
20 school system he didn't have any friends. He didn't
21 socialize outside of school. He didn't socialize inside
22 of school.
23 Q. And how is he doing socially now?
24 A. He has friends. Almost on weekly basis we will
25 have a child come over and spend the night. We have like

1 a waiting list of kids that want to come over and spend
2 time with my kids. It's a miracle. It really is.
3 Q. And then how about your youngest son, Brandon,
4 did he start at Jefferson Academy?
5 A. No. He actually started at Show Low Primary at
6 the Show Low public school.
7 Q. And tell me about his educational career there
8 prior to Jefferson Academy.
9 A. He was failing. They didn't even think he was a
10 pre-K level at that point. He wasn't reading. He wasn't
11 writing. He could barely do his ABCs. He was struggling
12 socially, very quiet, inability to communicate. He just,
13 you know, at all levels he just was not functioning even
14 at grade level, even at age appropriate level.
15 Q. All right. And how -- what was his social, how
16 was he, you know, performing socially in --
17 A. Non-existent. There was no social for him.
18 Q. And then when you brought him to Jefferson
19 Academy has any of that changed?
20 A. Absolutely. He's almost at grade level in math.
21 Reading we're getting there. He's actually reading.
22 That's a miracle. He's actually socializing with other
23 children. He's performing academically, like I said,
24 almost at grade level. He has made such strides from
25 where he was previous. And socially, yes, absolutely

1 fantastic. He has friends. He, he's reading. He's
2 writing. He's, you know -- I can't say enough good
3 things. I just can't.
4 Q. What is the communication like with the teachers
5 and staff at Jefferson Academy?
6 A. They really try to make it individualized to
7 that child. They work very hard and diligently in trying
8 to understand what the emotional responses are due from
9 and how to best help him, you know, get the best and the
10 most potential out of his education and it's like they
11 don't give up. They don't give up on these kids. These
12 kids would be shoved under a rug at a public school. And
13 they do not give up on these children.
14 He has just flourished. They really
15 individualize the education program and tailor it to each
16 child and try to find what inspires those children and it
17 works. He was absolutely -- he used to have meltdowns I'd
18 say three to six times a day. Now I would say every other
19 week.
20 Q. And you're talking about the youngest one?
21 A. Yes. I'm talking about the youngest one,
22 uh-huh.
23 Q. Are you aware that over the past three years the
24 school has been rated as a D or below?
25 A. Yes.

1 Q. Yet, you know, why do you still send your
2 children there?
3 A. Because they would absolutely fail, anywhere
4 else they would fail. And I think what needs to be said
5 is I do know the scores and I understand that they, you
6 also need to understand the demographics and the type of
7 children that Jefferson is helping and these kids without
8 Jefferson do not have a chance at Show Low. There is
9 nothing else in Show Low for these children. So, you have
10 to look beyond the scores. You have to look beyond the
11 scores. It doesn't mean anything when you look at the
12 demographics and the type of children that Jefferson helps
13 every day.
14 Q. So, if Jefferson Academy is forced to close down
15 what will you do with your children?
16 A. I do not know. I am seriously -- it keeps me up
17 at night. I am just -- I do not know. It's going to be
18 awful. I have no idea. I do not want to send them back
19 to the Show Low public schools. I really don't.
20 MS. STILLMAN: No further questions.
21 THE WITNESS: Okay.
22 MS. STILLMAN: Hold on.
23 ADMINISTRATIVE LAW JUDGE: Cross?
24 MR. CONDOS: She's going to ask you some
25 questions now.

1 CROSS-EXAMINATION
2
3 BY MS. ANDERSON:
4 Q. At what grade did your youngest son enter into
5 Jefferson Academy?
6 A. First grade.
7 Q. And what grade is he in now?
8 A. He is fifth grade -- well, sixth grade, but
9 fifth grade level.
10 Q. I'm sorry?
11 A. Sixth grade.
12 Q. And he just finished the sixth grade year?
13 A. Right. But he's kind of, like I said, they
14 really do tailor the educational program so he's probably
15 closer to like a fifth grade level in most of his
16 subjects.
17 Q. Are you familiar with the Arizona State Board
18 for Charter School Academic Framework?
19 A. No.
20 Q. Are you familiar -- I have no further questions.
21 A. Okay.
22 ADMINISTRATIVE LAW JUDGE: Redirect?
23 MS. STILLMAN: No, Your Honor.
24 ADMINISTRATIVE LAW JUDGE: Okay. You may
25 be excused.

1 THE WITNESS: We're done.
2 ADMINISTRATIVE LAW JUDGE: Thank you.
3 MS. STILLMAN: Thank you for driving down.
4 MR. CONDOS: Can we take a little break
5 here?
6 ADMINISTRATIVE LAW JUDGE: You can. We'll
7 go off the record at this time.
8 (Recess taken 3:07 p.m. to 3:17 p.m.)
9 ADMINISTRATIVE LAW JUDGE: Okay. We're
10 back on the record. I'll remind you, you're still under
11 oath.
12
13 SANDY STEWART,
14 called as a witness herein, having been previously duly
15 sworn by the Administrative Law Judge continued to
16 testified as follows:
17
18 DIRECT EXAMINATION (Continued)
19
20 BY MR. CONDOS:
21 Q. Now, Mr. Stewart, we were just getting to the
22 stage where you had supplied the information to the staff
23 and then you were notified that there was a hearing for
24 the State Charter School Board to decide if they were
25 going to issue a letter of intent to revoke; do you

1 remember getting a notice to that effect?
2 A. Yes, I do.
3 Q. Now, between the time you submitted the last
4 batch of documents and the hearing did you receive any
5 copies from the Board of what was being submitted or from
6 the staff as to what was being submitted to the Board as
7 sort of the evidence for them to consider?
8 A. I don't recall receiving it.
9 Q. Okay. And at that hearing it was decided by the
10 Board that the charter should be revoked or they decided
11 to issue a letter of intent to revoke?
12 A. That's correct.
13 Q. And you were under certain obligations as a
14 byproduct of that. Did you follow what you were asked to
15 do with respect to notification of parents and community?
16 A. Yes, I did.
17 Q. Okay. Now, after the parents received this did
18 they contact you with respect to what they had received as
19 far as the notice?
20 A. We had a few people. We don't provide
21 transportation so parents drop their kids off and pick
22 them up and I had a few parents come into my office and
23 ask me about the issue, as well as we had besides sending
24 out a letter we held a couple of meetings. We called
25 Parent Board meetings where we told them we would discuss

1 the issue, but we never had a big turnout for it.
2 Q. All right. Did parents ask if they could do
3 something with respect to the issue of revoking the
4 school's charter?
5 A. Yes, we did. We got quite a few parents asked
6 us that.
7 Q. And I'm going to have you refer to the white
8 album, not The Beatles "White Album", but our white album.
9 And if you could look at Exhibits B through Q, which are,
10 I believe at 006 through 00040, and tell me what those
11 are.
12 A. These are letters that parents wrote on behalf
13 of the school supporting the school.
14 Q. Okay. And do you remember when you received
15 those?
16 A. Well, we -- they didn't all come at the same
17 time, but first part of February is when, is when, when
18 they started coming in, if I recollect correctly.
19 Honestly, I don't remember that well. I'm looking at the
20 date on the letters.
21 Q. And each letter has some difference or some
22 different reason as to why they feel the school should
23 be open. Are you asking the Judge if she admits them into
24 evidence to have, to take some time and read those so we
25 don't go through all of them little by little here in the

1 courtroom?
2 A. I'm not -- I -- what are you asking me? I'm
3 sorry.
4 Q. If we have the evidence submitted are you asking
5 The Court to take a few minutes to read through these
6 letters and some of the reasons that these parents have
7 demonstrated as to why the school should not be closed?
8 A. I think --
9 Q. Rather than going through a bunch of them here
10 today, basically.
11 A. Right. I would hope that would happen.
12 MR. CONDOS: Okay. Your Honor, at this
13 time we would move to submit Exhibits B through Q.
14 ADMINISTRATIVE LAW JUDGE: Any objection?
15 MS. ANDERSON: Your Honor, with regard to
16 those exhibits, again, the exhibits are cumulative. In
17 fact, several of those exhibits are -- is information from
18 parties that were witnesses in this case and have already
19 testified. The letters don't provide The Board with the
20 opportunity to cross-examine and I would object to their
21 submission.
22 ADMINISTRATIVE LAW JUDGE: I will admit
23 Exhibits B through Q and give them the weight I deem
24 appropriate.
25 (Exhibit Nos. B through Q admitted.)

1 MR. CONDOS: Okay. Thank you, Your Honor.
2 BY MR. CONDOS:
3 Q. Now, if you look at the first exhibit there that
4 I forgot to ask you earlier, Exhibit A, is that the most
5 recent annual report that was submitted to the Corporation
6 Commission illustrating the officers of the corporation
7 Founding Fathers?
8 A. I don't know if this is the most recent. I
9 think I went in and modified it.
10 Q. Okay.
11 A. If I haven't, I need to.
12 Q. Okay. All right. That's fine.
13 Now, do you think that the -- the students have
14 just recently taken the AIMS test; is that right?
15 A. That is correct.
16 Q. Okay. And from speaking to the teachers and
17 some of the new efforts that you and the school have put
18 into effect what's your thinking as far as how the
19 students are going to do on this AIMS test?
20 A. I think the school as a whole is going to do
21 significantly better than we have in the last three years.
22 I think every student is going to do -- maybe not every
23 student, but I would say at least 90 percent, probably
24 closer to 95 percent, a handful of students may not do
25 better, but other than that I think every student is going

1 to do significantly better.
2 Q. Okay. And when is it anticipated that you will
3 get those results?
4 A. They're due to come out -- in fact, I think the
5 high school math probably comes out today, I think. The
6 elementary comes out I want to say on the 22nd of May,
7 where we get a preliminary report that doesn't show the
8 breakdown in math. They give you the overall score and
9 then in the final report they have a breakdown. They
10 break down those subject areas and tell you how they're
11 weighted on the whole, on the score and how well each
12 student did. I don't know. I think that comes out in
13 June sometime. I'm not exactly sure, but my understanding
14 is that preliminary initial ones will be out, I think,
15 like I said high school I think math came out today and
16 the elementary, the K-8 will be out next Friday, I
17 believe.
18 Q. So, by at least the first of June you should
19 have those numbers?
20 A. We should have those numbers, yes.
21 Q. Now, those numbers won't be an exact reflection
22 of the A, B, C through F, they'll just primarily be the
23 raw scores?
24 A. Right, of how well the students, what the
25 students scored and then with that score they always tell

1 you if it's a falls far below, approaches, meets, or
2 exceeds.
3 Q. But with that score could you match up the
4 student from the prior score last year's and see if there
5 was any increase?
6 A. If they were -- if we have that prior year
7 score, absolutely. We try to do that as soon as we get
8 those scores.
9 Q. All right. Do you think that would be
10 beneficial to the judge in making decisions here as to
11 implementation and end results of what you've been doing
12 to try to better the students' education?
13 A. Yes, I do.
14 Q. Okay. Now --
15 A. Can I ask a question or comment? No, okay.
16 I'll shut up.
17 Q. Okay. Why do you think that?
18 A. Well --
19 Q. Or --
20 A. -- as we look at the intent to revoke the
21 charter it's based on the previous three years and the
22 decline and if we didn't improve any I would say shut us
23 down. I would shut us down myself. But the work that's
24 been done is we're talking about the present now. We're
25 not talking about the past. We're looking at the past.

1 This whole thing is about the past, but as we made the
2 changes we're talking about these kids and the things that
3 we're doing for them and the improvement that, you know,
4 we've learned a lot and we still have a lot to learn. But
5 if you can't look at what we're doing currently then I
6 don't think it's -- I mean, I feel like if we don't it's
7 totally unfair. If we look and make a decision based upon
8 what we're currently doing that should be the decision
9 determined about the future of Jefferson Academy.
10 Q. Because when you -- and when you mention the
11 past it's really just the past three years, prior to that
12 you were performing or performing plus for four years?
13 A. That is correct.
14 Q. Now, your school with the high percentage of
15 special education and children coming in at below grade
16 level, at risk, could qualify for the alternative school
17 that the Department of Education has, did you ever
18 consider that?
19 A. We did. We had, I had several discussions prior
20 to the -- it came out the new ruling just this spring.
21 Prior to that I had talked to Marv Lamer at the Arizona
22 Department of Education, he's one of the superintendents
23 under Huppenthal and he, you know, he, he kind of helped.
24 I had one of his associates check into that and there were
25 certain requirements and it was more for adjudicated

1 youth. And I'm not professing to be an expert on this,
2 because I don't really know all the previous, previous
3 qualifications, but when they came out with the new ruling
4 determination, whatever you want to call it, for
5 alternative schools I saw that we would definitely fall,
6 we could become what's called an alternative school.
7 Although, there was a big question on one of the
8 indicators, which was stated that if you have -- one of
9 the qualifiers was if the student comes in below grade
10 level, a grade level below where they should be. But the
11 indicators were you could use the AIMS testing, you could
12 use your curriculum testing, you could use like a National
13 Norm Benchmark such as AIMSweb®, but none of those
14 assessments say that a child is a grade level below. For
15 instance, the AIMS test does approaching mean under a
16 grade level below where I should be? Is there a certain
17 point below meeting qualifies me as a grade level below?
18 The same with the AIMSweb® or National Norm Benchmark. As
19 you see in the evidence we submitted about Tier 1, Tier 2,
20 and Tier 3 where it doesn't say grade one, grade two,
21 grade three. I mean, you give a test to a second grader
22 and you fall in Tier 1, Tier 2, or Tier 3. If you're not
23 in your average group, which is Tier 1, does Tier 2 mean
24 you're a grade level below? Does Tier 3 mean -- anyway.
25 These are questions I had so I sent an e-mail to the lady

1 that put out the memo about that to the schools and I
2 haven't yet received a response to it.
3 There was a deadline for qualifying for this
4 year and we missed that deadline, because it came out
5 shortly, the deadline wasn't too long after the, after
6 the, after they put that ruling out. It was about,
7 actually, I think it was around 45 days.
8 Q. Plus, you were under a letter of intent to
9 revoke?
10 A. We were under a letter of intent to revoke. And
11 I talked to Marv Lamer and he kind of just said we're not
12 going to do anything until you get this intent to revoke
13 thing out of the way.
14 Q. Okay. Now, if you would, if the judge would be
15 open to looking at and seeing some advancement, even
16 though it may not reach the numerical numbers that the
17 State Board would like, would you -- especially with the
18 clientele that we have, would it be your intention to at
19 least try to qualify as an alternative school?
20 A. Absolutely.
21 Q. Okay. And if you were an alternative school, we
22 don't know for sure, but your numbers may illustrate a
23 higher performance level than failing?
24 MS. ANDERSON: Objection; calls for
25 speculation.

1 A. That's true. It -- she's right. It's
2 speculation, because they haven't even passed that yet.
3 Q. I'll withdraw that, but --
4 ADMINISTRATIVE LAW JUDGE: Okay.
5 Q. -- you -- well, your school is clearly a little
6 different than the traditional district around you?
7 A. Absolutely.
8 Q. And, in fact, I think we've had a lot of
9 testimony that the district sends you many of their
10 students who they can't handle?
11 A. We -- yes, that's true.
12 Q. Okay. If the school would close because of the
13 revocation, you know, we've had a number of people talk
14 about what would happen to the kids, including, you know
15 Ms. Walker who just testified and she says she stays up at
16 nights. What do you think would happen with your
17 students?
18 A. There are some of those kids --
19 (Interruption by Reporter.)
20 A. There are some of those students that would not
21 have a chance in the district schools that are up in the
22 White Mountain area.
23 Q. Why?
24 A. Because they are -- they have, they have issues,
25 challenges they face that take work, a lot of work to deal

1 with them. And the district just makes it miserable on
2 them, enough to where the parents -- oh, they would go to
3 the district and then the ones in the younger grades, and
4 I'm not talking about all the students, but there's a good
5 portion, I would say, probably 40 percent of those
6 students in the younger grades would probably make it till
7 junior high and then they would drop out, because life,
8 the experience was so miserable they couldn't handle it.
9 For high school students and junior high
10 students, our junior high students might last one or two
11 years at the district and then they would be out and
12 again, not all of them. We're talking a probably little
13 higher percentage with the junior high. Our high school
14 students maybe three would stay in the district and they
15 would drop out, the rest would drop out. And I can say
16 that, because they were dropping out when they came to us.
17 We were the last resort.
18 Q. Now, I want to -- prior to coming to the hearing
19 did the school in an attempt to find out whether how much
20 fight we should do send out a survey to the parents of the
21 students that you had in Franklin -- I mean, not Franklin,
22 I'm sorry, Founding Fathers?
23 A. Yes.
24 Q. Okay. In that survey -- let's put it this way,
25 what's been marked as Exhibit EEE?

1 A. That's three or four Es?
2 Q. Three. Are those surveys that you received
3 back?
4 A. Yes, they are.
5 Q. Okay. And with respect -- they're two-page
6 surveys, right?
7 A. Yes, they were or are.
8 Q. And you asked them to rate the school with
9 respect to the time they've been there, the children's
10 grade, are they satisfied. Do you think that's a true
11 indication of what the parents feel like with respect to
12 this school and the need for this school and their
13 satisfaction with the school?
14 A. I would have to say yes. I mean, they, they
15 were definitely sent out to the parents and they
16 definitely came back. We didn't sit in the office and
17 mark these up, so.
18 Q. And they've even signed most of them and also
19 put in certain comments?
20 A. Yes, some people wrote in comments.
21 Q. So, do you think that would be important, again,
22 with the alternative facing these students for the judge
23 to review as she's making her considerations?
24 A. Yes, I think it would be important.
25 MR. CONDOS: Your Honor, we would also like

1 to submit at this time, Founding Fathers Exhibit EEE.
2 ADMINISTRATIVE LAW JUDGE: Objections?
3 MS. ANDERSON: Yes, Your Honor. Again, the
4 objection would be based on cumulative. Again, some of
5 these surveys are the same parents whose letter was
6 contained in Exhibits B through Q. Some of the surveys
7 are not signed and some of them do identify kids so, I
8 know it's been signed by their parent, but I just want to
9 bring that to your attention as well.
10 ADMINISTRATIVE LAW JUDGE: Thank you.
11 MR. CONDOS: If necessary, Judge, if
12 there's any mention of children we would redact that for
13 the final, but I don't think this --
14 ADMINISTRATIVE LAW JUDGE: I will admit
15 Exhibit EEE and give it the weight that I deem appropriate
16 and I will need a redacted copy.
17 (Exhibit No. EEE admitted.)
18 BY MR. CONDOS:
19 Q. Okay. Thank you, Your Honor.
20 Now, through the times that you've been trying
21 to look for ways to try to better the scores and better
22 the education of students have you reviewed articles,
23 books, that deal with special education students and
24 students that are below the levels in testing?
25 A. Yes. I, I went online and just, you know,

1 Googled poverty. I Googled special ed. I Googled
2 retention and the effects it has upon, you know, any
3 effects it has upon students and I reviewed, you know, a
4 handful of articles. At this point I can't tell you the
5 title of any of them.
6 Q. Okay. Well, there's one important one that I
7 would like you to take another look at and that's the
8 Exhibit VV.
9 THE REPORTER: "V" like "victor?"
10 Q. "V" as in victor.
11 VV, roughly page 230, I think. I think it's
12 titled, "Oh, the Places They'll Go! School Ratings:
13 Improving Data in Data Driven Decision Making."
14 Did you find it?
15 A. Oh, yes. Yes, I'm sorry.
16 Q. And is that an article that you feel or that you
17 felt was important in preparing for this and also in
18 preparing for working on the kids, at least preparing
19 understanding the AIMS test?
20 A. I felt like the article had some very good
21 points in there.
22 Q. And is it an article that you feel would benefit
23 the judge in making a determination with respect to the
24 revocation of the charter?
25 A. I think it would definitely give the judge a

1 little bit of insight on some of the challenges.
2 MR. CONDOS: Okay. Your Honor, at this
3 time we move to submit Exhibit VV, as in "victor".
4 MS. ANDERSON: Your Honor, again, the use
5 of this witness for the admission of this exhibit, which
6 my recollection he didn't indicate that he had read, is a
7 backdoor attempt to get this exhibit in when the author of
8 this document could not, arrangements could not be made
9 public to appear here.
10 Again, the objection is also on the basis
11 of relevance with regard to the contents of this exhibit.
12 The focus is on again, 2012 data from the State's letter
13 grade system and it's not relevant to the issues for this
14 hearing.
15 MR. CONDOS: Judge, I don't think anything
16 could be more relevant, because it specifically deals with
17 data in data driven decision making and it specifically
18 deals with the AIMS test. I think it can come in, not
19 only as a basis for what Mr. Stewart looked at in looking
20 at operation of school, but more importantly it can come
21 in, I think, as a treatise, a document. The exception of
22 the hearsay rule for documents or well-supported research
23 documents and then the rest of it goes to the weight of
24 the evidence.
25 ADMINISTRATIVE LAW JUDGE: I will admit

1 Exhibit VV and give it the weight I deem appropriate.
2 (Exhibit No. VV admitted.)
3 BY MR. CONDOS:
4 Q. Thank you, Your Honor.
5 So, Sandy, do you believe that Founding Fathers
6 has done, has made efforts to strengthen the educational
7 process at the school to try to do something with respect
8 to these Ds?
9 A. Absolutely.
10 Q. And are you asking The Court after she reviews
11 the evidence to rule that the school not be revoked, the
12 charter should not be revoked?
13 A. Yes, I would.
14 MR. CONDOS: Okay. No further questions,
15 Your Honor.
16 ADMINISTRATIVE LAW JUDGE: Cross?
17
18 CROSS-EXAMINATION
19
20 BY MS. ANDERSON:
21 Q. Mr. Stewart?
22 A. Yes.
23 Q. I believe it was your testimony on Direct
24 Examination that you had provided notification to the
25 parents of the notice of intent to revoke the charter that

1 was filed in the case; is that correct?
2 A. That is correct.
3 Q. And that you sent a letter to parents?
4 A. That is correct.
5 Q. And did the letter, was the information provided
6 to the parents that advised them of the basis for the
7 notice of intent to revoke?
8 A. I don't think we specifically, I don't think we
9 stated that, that went into an explanation of getting
10 three Ds and making it a, and then becoming an F label and
11 going into the statute of laws that then afforded the
12 Charter Board to make a decision the restore or revoke the
13 charter. I don't think I went into that explanation, no.
14 Q. Is one of the letters that was to the school
15 parents listed on Jefferson Academy's website?
16 A. I'm pretty, I believe it was, yes.
17 Q. And in that letter you advised parents that,
18 "The State Charter Board voted to issue a notice of intent
19 to revoke our charter due to the fact that we have so many
20 special needs students who don't pass the AIMS test,"
21 correct?
22 A. If that's what's on the letter, then that's
23 what's on the letter. I will say that --
24 Q. You've answered my question.
25 A. Okay.

1 Q. Would you please refer to Exhibit -- and it
2 would be I believe in the black notebook -- Exhibit 1-E,
3 page --
4 A. I'm sorry, was that "E" o "B?"
5 Q. 1-E at page ECS18.
6 A. Okay.
7 Q. And if you look at the first paragraph. Now,
8 this is the School's Demonstration of Sufficient Progress,
9 correct?
10 A. That is correct.
11 Q. And if you look at the first paragraph and
12 second to last sentence it states: "As we reviewed and
13 analyzed our program we realized we had not focused on
14 delivering grade-appropriate content to those students who
15 are behind or demanding the rigor for needed growth."
16 Correct?
17 A. That is correct.
18 MR. CONDOS: I'm sorry, what number was
19 that?
20 MS. ANDERSON: 1-E.
21 MR. CONDOS: Okay.
22 Q. If you could refer to the other exhibit
23 notebook, Exhibit C, page nine.
24 A. Yes.
25 Q. Now, when I look at some of these parent letters

1 there is a paragraph at the top of the page that's
2 typewritten in?
3 A. Mm-hm.
4 Q. And what is the source of that, that paragraph?
5 A. The Parent Board sent these out and they, they,
6 they formulated this letter and sent it out to the parents
7 and asked them to respond to it, to us -- for us, I should
8 say -- back to us for us. They -- they -- the Parent
9 Board had the letters come directly to me and not to the
10 Parent Board, but they're the ones that sent these letters
11 out.
12 Q. So, the expectation was that the information
13 provided under that paragraph would respond to that
14 paragraph?
15 A. Correct.
16 MS. ANDERSON: I have no further questions.
17 ADMINISTRATIVE LAW JUDGE: Okay. Redirect?
18 MR. CONDOS: I do.
19
20 REDIRECT EXAMINATION
21
22 BY MR. CONDOS:
23 Q. Sandy, if you could go back to Exhibit 1-E.
24 A. On the white book or black book?
25 Q. The black book -- no -- yeah, the black book.

1 A. Okay.
2 Q. Okay. Ms. Anderson asked you to look at the, or
3 at least read the portion that says we realize that we
4 weren't delivering this great, appropriate content to
5 those students over time. The next letter says, next line
6 says, "We adjusted our program as follows." And this was
7 submitted as a demonstration of sufficient progress to the
8 State -- to the staff?
9 A. Yes. To the State Charter Board, yes.
10 Q. Okay. Then it goes through one, two, three,
11 four pages of how you took the necessary steps to adjust
12 the program so that the students would get appropriate
13 content and the necessary items for their needed growth,
14 right?
15 A. That's correct.
16 Q. And I'm not going to go through all of them, but
17 everything in here is consistent with the testimony that
18 the teachers have brought in and consistent with -- excuse
19 me. Let me rephrase that.
20 Is it consistent with the testimony that has
21 been provided by the teachers who have all testified and
22 the parents -- or first of all, with the teachers that
23 have testified as far as implementation?
24 A. It should, because that's what we've done and
25 that's what they're doing.

1 Q. Okay. So, basically that was just a recognition
2 of the fact that you were behind and that you took steps?
3 A. Absolutely.
4 MR. CONDOS: Okay. No further questions,
5 Your Honor.
6 ADMINISTRATIVE LAW JUDGE: Thank you very
7 much. Any other witnesses?
8 MR. CONDOS: Your Honor, we don't have any
9 other witnesses, but we would ask The Court as part of
10 Defendant's case to keep the record open until the results
11 of the AIMS test that was just taken are received and
12 allow Founding Fathers to submit a comparison of students
13 from last year's test to this year's test as an example of
14 either successful implementation of a program which helps
15 the children or an unsuccessful program of implementation
16 that doesn't help the children, because that's the end
17 result of the efforts that they were obligated to make,
18 which the State says was insufficient.
19 MS. ANDERSON: Your Honor, not knowing what
20 form that information is going to take, that information
21 in and of itself without some kind of analysis is not
22 going to be helpful. It's my understanding that at least
23 the high school AIMS scores have been distributed to
24 schools and the School would have had an opportunity to
25 provide that information. That's the Board's position.

1 MR. CONDOS: Your Honor, we would add, if I
2 could?
3 ADMINISTRATIVE LAW JUDGE: Mm-hm.
4 MR. CONDOS: That it would be helpful.
5 This whole -- the initial basis that started this isn't
6 the dashboard it was the raw scores and, you know, if
7 we're talking about improving a child's education what
8 they did last year on the test as opposed to what they did
9 this year should be an indication of either improvement or
10 not improvement. And if they're not relevant then the
11 whole testimony that we've brought in with respect to what
12 improvements that we have made to rebut what the State
13 Board of Charter Schools is saying we didn't make any
14 improvement becomes kind of a moot point.
15 And I would also submit that we could
16 submit it to the State Board for Charter Schools and they
17 could make their comments on it. And again, it would all
18 go to the weight of the evidence that the judge imposes
19 upon it.
20 ADMINISTRATIVE LAW JUDGE: Is the
21 information that you expect to receive that the scaled
22 scores or just the raw score that the students received?
23 MR. STEWART: Can I answer that?
24 ADMINISTRATIVE LAW JUDGE: Sure.
25 MR. STEWART: The scores that we would get

1 would be the actual scores that a student receives for the
2 AIMS test. And the AIMS has the four categories: Falls
3 far below, approaches, meets, and exceeds. In each one of
4 those categories there's a range of scores and those,
5 those scores come in as one number score and then you line
6 it up to see if you -- when they issue you the test they
7 tell you right there what category it falls into. It
8 doesn't tell you on that sheet where the, where the cut
9 is, you know, at what point it becomes into the next
10 category.
11 But those scores are the actual scores that
12 the State uses to -- well, honestly, I can't say. I don't
13 know how the State determines their, if they just use
14 falls far below, or approaches, or if they use the actual
15 score, because you can be at approaches and be at the
16 bottom end, which is significantly different than being at
17 the very top end. So, I'm not exactly sure how the State
18 figures their calculation.
19 MR. CONDOS: In the alternative, Your
20 Honor, I think the A through F scores will come out in
21 September, August, July -- when will they come out?
22 MS. ROWE: We don't know exactly when they
23 will be out, but they should be out by, I believe it
24 should be July.
25 MR. CONDOS: July. And the alternative,

1 Judge, and the reason I just said till June is because
2 that's a much shorter time period. But we, we, I guess I
3 would make the secondary offer that we keep it open until
4 those graded scores A through F are prepared and submitted
5 and received by the School to submit to you. Because that
6 clearly it would be, the test that started this whole
7 beginning going to the State Board for Charter Schools.
8 That would just mean holding it open for another month,
9 that's the only concern I had, concern that I thought you
10 might be concerned about.
11 MS. ANDERSON: Your Honor, again, the
12 school's letter grade is five percent of the Board's
13 dashboard and what, what the issue is here was whether the
14 School met or made sufficient progress toward the Board's
15 academic performance expectations.
16 ADMINISTRATIVE LAW JUDGE: When does the
17 Board meet? When does the Board meet?
18 MS. ANDERSON: The Board meets monthly. I
19 don't know. Are you having a meeting in July?
20 MS. ROWE: Yes, it will be the second
21 Monday in July.
22 ADMINISTRATIVE LAW JUDGE: Let's take a
23 brief recess while I consider this and we'll go off the
24 record at this time.
25 (Recess taken 4:00 p.m. to 4:05 p.m.)

1 ADMINISTRATIVE LAW JUDGE: Okay. We're
2 back on the record.
3 I guess my concern is so much of the
4 dashboard and the final score is a comparison to how that
5 student is doing versus other students in the state. Even
6 compared to how that student did the previous year. So,
7 the raw scores, while they may show improvement for year
8 one to year two, that doesn't show whether they made more
9 or less improvement than the similarly, similarly situated
10 student in that same time period.
11 So, while I do understand there's some
12 value to the raw scores I don't think there's enough that
13 it would ultimately impact a decision in this matter. So,
14 I'm going to deny the request to submit the AIMS scores,
15 but -- oh, I didn't ask if you had any rebuttal?
16 MS. ANDERSON: Well, Your Honor, in terms
17 of, you know, again, it was not going to, as you indicate,
18 it's not going to provide that information with a
19 comparison to the State. It's not going to tell us what
20 the State's percent passing or the growth is. It's not
21 going to allow us that comparison.
22 ADMINISTRATIVE LAW JUDGE: I'm sorry, I
23 meant rebuttal of evidence overall for the hearing.
24 MS. ANDERSON: Oh, I'm sorry.
25 ADMINISTRATIVE LAW JUDGE: That's okay.

1 MS. ANDERSON: I'm sorry, Your Honor.
2 MR. CONDOS: Just before we close the
3 defense then I would like to request then, obviously, I
4 understand The Court's position with respect to the raw
5 scores, but if we can keep the record open another 30
6 days, which I believe is within the ALJ's authority, then
7 we may be able to get the actual AIMS scores A through F,
8 which started this whole thing, and that would be a clear
9 indication as to success or increase.
10 ADMINISTRATIVE LAW JUDGE: Again, in the
11 dashboard that A through F is the five percent and so much
12 of the other information contained in that is a comparison
13 versus other students. As I've recalled the testimony and
14 understood the testimony, it's if student A scored 12 last
15 year, yes, they may improve and score 20 this year, but if
16 another student who scored 12 last year, but scored 60
17 this year, this student didn't perform as well as the
18 other student. And comparing all students in the state
19 without that comparison versus other schools and other
20 students how they're doing I'm not sure the value of even
21 the letter grade, the A through F. If that's such a small
22 component of the overall rating of the school.
23 MR. CONDOS: Judge, but that didn't come
24 into effect until they received the third D, okay. That's
25 what --

1 ADMINISTRATIVE LAW JUDGE: I understand,
2 but what we're dealing with here was the decision that was
3 made and whether it was appropriate at the time it was
4 made.
5 MR. CONDOS: All right. But my -- I guess,
6 my submission is that let's say the State scores a "C" on
7 this one or a "B" or an "A." Then we're revoking a school
8 that has implemented the items that the State Board for
9 Charter Schools says they weren't implementing and has
10 achieved a new score that would put them into full
11 compliance with, you know, if there is meeting or
12 exceeding the standards and so --
13 ADMINISTRATIVE LAW JUDGE: Is meeting or
14 exceeding the A, B, C, D, E, F score? Sorry about the E.
15 MR. CONDOS: Right.
16 ADMINISTRATIVE LAW JUDGE: But that's not
17 the overall rating given by the Charter School, the
18 Charter Board. They have growth, proficiency, graduation,
19 and state accountability as part of that, but all of that
20 goes into the overall rating. So --
21 MR. CONDOS: But it trumps the AIMS score,
22 I guess. Because the AIMS score is the key factor that
23 gives the Charter School Board the opportunity to make a
24 decision on revocation.
25 ADMINISTRATIVE LAW JUDGE: I believe the

1 testimony earlier was that you were still under the -- I
2 don't remember the technical term -- there was a plan and
3 it would be reviewed and you had to, you could go -- where
4 is that?
5 MS. ROWE: The Demonstration of Sufficient
6 Progress --
7 ADMINISTRATIVE LAW JUDGE: Is that --
8 MS. ROWE: In the Academic Performance
9 Framework Guidance.
10 MS. ANDERSON: In the Academic Performance
11 Framework.
12 ADMINISTRATIVE LAW JUDGE: Where it was
13 your one you had to do this and at any point it could have
14 still gone back to the Board and the Board could have
15 decided to revoke --
16 MS. ANDERSON: Oh, the intervention
17 schedule.
18 ADMINISTRATIVE LAW JUDGE: Thank you. I
19 don't know where that is in here, but --
20 MR. CONDOS: And the question about that,
21 Judge, but the problem is that's not what they went back
22 to the Board for.
23 ADMINISTRATIVE LAW JUDGE: I understand
24 that, but overall -- I understand you're saying the only
25 reason we're here is because of the F grade, but the

1 testimony was we could have been here without the F grade.
2 So, even with -- and again, I, if the
3 overall purpose is to compare this school to other schools
4 as to whether or not this school is exceeding standards,
5 meeting standards, does not meet standard, or falls far
6 below standard, I don't think that's something that's
7 taken in a vacuum. It's a comparison against other
8 schools. If everyone in the school gains 10 points, but
9 everyone in the state gains 50, yes, all of your students
10 improved, but that doesn't mean all your students improved
11 the same as across the state.
12 So, I think without that data comparing it
13 to all the other schools and students I'm not sure the
14 value it would have to making a determination in this
15 case.
16 So, with that, any rebuttal evidence?
17 MS. ANDERSON: No, Your Honor.
18 ADMINISTRATIVE LAW JUDGE: Okay. Then I
19 believe we discussed previously written closings, written
20 proposed findings of fact or conclusions of law. Is
21 anyone --
22 MS. ANDERSON: Your Honor, it was, I
23 expressed it was the Board's position that since we're
24 going to be doing written recommended findings of fact and
25 conclusions of law it would be the Board's preference not

1 to in addition to that do a written closing, because the
2 information is going to just be repetitive and I think
3 there's just not, in terms of resources and time would be
4 more appropriately spent to providing the proposed
5 findings of fact and conclusions of law.
6 ADMINISTRATIVE LAW JUDGE: Okay.
7 MR. CONDOS: And the School, obviously,
8 would like to have a closing argument. We -- I thought we
9 had talked about the possibility of doing it orally, but
10 at the very least we would like to have a closing
11 argument, which is really different than a findings of
12 fact and conclusions of law, because it's the persuasive
13 side of it where the other one is conclusory side of it.
14 ADMINISTRATIVE LAW JUDGE: Okay. Then
15 before we get to closings why don't we go ahead and talk
16 about timelines for the proposed.
17 MS. ROWE: You need two weeks, correct?
18 THE REPORTER: Yes.
19 MS. ROWE: Two weeks for the transcript.
20 ADMINISTRATIVE LAW JUDGE: Two weeks for
21 the transcript, not including the holiday.
22 MS. ANDERSON: But the parties do -- the
23 parties have had the transcript for the first three days.
24 ADMINISTRATIVE LAW JUDGE: Oh, okay.
25 MS. ANDERSON: Since the time that it was

1 filed.
2 ADMINISTRATIVE LAW JUDGE: Did I get a copy
3 of that?
4 MS. STILLMAN: It was filed.
5 MS. ANDERSON: Yes.
6 ADMINISTRATIVE LAW JUDGE: Okay. It was
7 probably submitted electronically so I didn't receive a
8 physical copy, so that's fine.
9 MS. STILLMAN: It's another one of these
10 binders.
11 ADMINISTRATIVE LAW JUDGE: Oh, okay.
12 Great. So, the transcript for today -- and we'll go off
13 the record and do all this off the record.
14 (Discussion off the record.)
15 ADMINISTRATIVE LAW JUDGE: Okay. We're
16 back on the record for closing argument.
17 MS. ANDERSON: Thank you, Your Honor.
18 Since the parties will be submitting
19 proposed findings of fact and conclusions of law allowing
20 for detailed findings based on references to the record in
21 this matter, which has been lengthy, my closing argument
22 is going to be very brief and general.
23 While the Arizona legislature established
24 charter schools to provide additional academic choices for
25 parents and pupils and to serve as an alternative to

1 traditional public schools they also established and
2 defined charter schools to provide a learning environment
3 that will improve pupil achievement.
4 As a sponsoring entity of Jefferson Academy
5 of Advanced Learning the Charter Board in implementing its
6 oversight and administrative responsibility must ground
7 its action in evidence of Founding Fathers Academy's
8 performance in accordance with its adopted performance
9 framework. It's adopted performance framework, which is
10 Board's Exhibit 2, sets forth the academic performance
11 expectations of its charter schools and a measurement of
12 sufficient progress toward those identified academic
13 performance expectations. For the school whose academic
14 performance did not meet the Board's academic performance
15 standards Founding Fathers has failed to meet the Board's
16 academic performance expectations.
17 Founding Fathers offered its special
18 education population and/or its free and reduced lunch
19 population as the basis for its poor academic performance
20 and the Board's failure to meet the Board's academic
21 performance expectations, but the Board's framework takes
22 into consideration a school's population, takes into
23 consideration its special education and free and reduced
24 lunch subgroup, specifically by breaking out and
25 identifying the school's student growth percentile, noting

1 both the school's overall student growth percentile, as
2 well as the student growth percentile of the bottom lowest
3 performing 25 percent students.
4 The Board's framework also takes into
5 consideration a school's population by conducting a
6 comparative analysis in which the performance of the
7 school's subgroup populations on the statewide assessment
8 are compared to the performance of the same subgroup
9 populations across the state. The Board's framework
10 considers the academic achievement of students at other
11 schools with a similar subgroup population. This allows
12 the Board to judge how students are performing in a
13 particular charter school compared to how students would
14 be expected to perform based on the performance of similar
15 student populations across the state. In these two
16 subgroup populations Founding Fathers falls far below the
17 statewide performance in those subgroups.
18 Despite its having failed to meet the Board's
19 academic performance expectations and as provided with the
20 Board's Academic Performance Framework Founding Fathers
21 was given the opportunity to demonstrate that it was
22 making sufficient progress toward the academic performance
23 expectations set forth in the framework. The opportunity
24 to demonstrate that despite its failure to meet the
25 Board's academic performance expectations that it has

1 systems of curriculum, instruction, assessment,
2 professional development in place, and that these systems
3 evidence a sustained increase in student growth and
4 proficiency in math and reading.
5 Founding Fathers was provided the opportunity to
6 submit a Demonstration of Sufficient Progress document,
7 and following its receipt of the Board's initial
8 evaluation of that document the opportunity to provide
9 additional evidence demonstrating its progress toward
10 meeting the Board's academic performance expectations.
11 Additional opportunity was provided at the site visit and
12 following the site visit.
13 Using the evaluation criteria in its academic
14 framework to analyze Founding Fathers demonstration Board
15 Staff determined that Founding Fathers had failed to
16 demonstrate progress, sufficient progress towards the
17 academic performance expectations set forth in the
18 framework, which under A.R.S. §15-183 I3 is the basis for
19 the Board's decision to revoke the charter of Founding
20 Fathers. Having been required to take action as a result
21 of its being informed by the Department of Education that
22 Jefferson Academy was assigned a letter grade of F. As
23 well as, would have reached that point under the Board's
24 own intervention schedule. Jefferson Academy's letter
25 grade of F came as a result of its third year consecutive

1 letter grade of D. Under the Department's achievement
2 profile system a letter grade of D demonstrates a below
3 average level of performance and a letter grade of F
4 demonstrates a failing level of performance.
5 You heard the testimony of quite a few parents
6 that praised the work that Jefferson Academy has done with
7 their disabled students, students with autism and
8 traumatic brain injury. And as a parent of a child with
9 Autism Spectrum Disorder myself I can understand the
10 significance to them of their description of their
11 children's social achievements. Feeling accepted, gaining
12 confidence, planning and caring out details of a birthday
13 party, these are difficult and significant achievements
14 for an autistic child, but the performance of Arizona
15 schools is measured by the academic achievement of its
16 students.
17 For a charter school sponsored by the Arizona
18 State Board of Charter Schools the school must meet or
19 demonstrate sufficient progress toward the academic
20 performance expectations that the Board has set forth in
21 it Academic Performance Framework, and Jefferson Academy
22 has failed to do that, and under Arizona law that is the
23 basis for revocation of its charter. Thank you.
24 ADMINISTRATIVE LAW JUDGE: Closing?
25 MR. CONDOS: Thank you, Your Honor.

1 It's been a long tenuous hearing here, but
2 I think there's a couple key factors that are just not
3 focused on.
4 Before we had the rubric, before we had the
5 dashboard, the law was passed for specific reasons.
6 Reason number one is to provide a learning environment
7 that will improve pupil achievement. Second one was that
8 parents should have an academic choice as to where they
9 want to place their students. The third one was that we
10 were creating a group of schools that will be, that would
11 be alternative to the traditional schools.
12 Charter contracts were entered into at this
13 time and still to the present. Charter contracts were
14 different depending on the time that they were executed.
15 Charter contract basically is the obligation for the
16 charter to perform what is required of it under the
17 contract. So, in this particular matter all these laws,
18 one submission would be, have come into effect afterwards
19 even though the school and the mission has stayed fairly
20 consistent.
21 What is forgotten as we look at the three
22 Ds that they've gotten is they were performing and
23 performing plus for the prior four years and it seems like
24 that hasn't been taken into consideration. It's not a
25 school that has not done its job throughout the whole

1 time. It has had its problems for the last three years.
2 Now, you heard testimony that there were a number of
3 reasons as to what had happened. As time went on and
4 their skills were advertised through word of mouth it
5 became the school in the area to send your special ed
6 student, to send your student who was not making it in the
7 traditional district, and the increase of that population
8 lowered the scores.
9 So, the question is: Did the school just
10 ignore it or did it take steps to try to rectify it and
11 increase the scores of its students? But even before we
12 get into that, the State has come up with a sole criteria
13 for a learning environment and that's the scores.
14 Now, an environment is more than just one
15 thing. If we look at the biological environment, you
16 know, you've got water, you've got plants, you've got the
17 animals, insects. It's more than just one thing. So, an
18 education environment is also clearly more than one thing.
19 In reality, the Board, unfortunately, has just decided
20 that it's just score.
21 In this school you clearly see a very good
22 educational environment, because the environment not only
23 includes the curriculum and the teaching method, but it
24 includes teachers and people who are very interested and
25 invested in the students. It includes different types of

1 educational techniques that, you know, would not be found
2 in the traditional school and through these techniques
3 these special children have achieved. Every teacher, with
4 the exception of the one who's in the hospital right now,
5 has come to testify on behalf of this school and not only
6 testify, but have brought in their numbers, their
7 computations to show how these children are moving up.
8 So, if we look at the statutes and we look at
9 this learning environment then this school is providing a
10 big alternative to the traditional school districts and a
11 clear academic choice for the parents, as was illustrated
12 by the parents who came here and testified, and the
13 letters, and the poles that were committed. This is a
14 school that's well liked by everybody that goes there and
15 it's not a school that's just babysitting students. It's
16 a school that's making a difference.
17 You know, the academic standards also talk about
18 getting preparedness for college. We see that this school
19 is, even with this population is able to cooperate with
20 the local community college so that some of their high
21 school students graduate not only with a high school
22 diploma, but one specifically, is going to have an
23 associate's degree as well, and others have already
24 achieved credit towards it. So, you know, there's
25 evidence of educational increase to the level that the

1 Board wants, but the world doesn't circulate around solely
2 college graduates. We have -- there's other people in the
3 world, not everyone is prepared to go to college, not
4 everyone wants to go to college. But this school prepares
5 people to do, to function in real life and I submit that's
6 the whole purpose of education is to teach people so they
7 can function when they're adults.
8 I mean, we have one girl who testified here
9 herself who was in Chandler District, which is considered
10 an A district, and she was still only reading at a second
11 grade level and for all practical purposes they had shoved
12 her along. You heard that her mom heard about this
13 school, checked into this school, left Chandler, moved to
14 Show Low and submitted this girl into this school and she
15 blossomed. She came out of her shell. In fact, she was
16 suicidal, as mom said, drawing that one picture saying,
17 "I'm sorry." You know, we have too many teenagers that
18 are falling into that. Here's one that was saved and she
19 was saved by this school and she found, with her
20 confidence she found that she can do, has another talent
21 that isn't necessarily a full book learning talent. She's
22 found a creativity to be a cake designer and has now
23 created a goal to be, to go to New Jersey where the guy's
24 on TV. Now, this is a child that was lost in the system
25 and now is found in real life.

1 So, those are factors that go back to the
2 charter school law as to why these charters were created
3 and it also talks about the learning environment.
4 Now, in this particular case the sort of the
5 match was the AIMS test, which was the third D. The
6 article that was submitted by someone who is with the
7 Arizona Charter School, if it's read, will talk about some
8 defects that the AIMS had and primarily it deals with the,
9 you know, the group, the downtrodden group, children from
10 high poverty levels, and I submit you can also put the
11 special education children in there, because you go
12 through life trying to show these kids the educational
13 life that they have, they can achieve, they can do better,
14 and the state gives them a test that they fail every year
15 and this school picks them up and shows them with a
16 positive attitude and continues to go forward.
17 Now, the bottom line question is: Will these
18 kids ever achieve what the State Board for Charter School
19 wants and if they won't, then any school that takes them
20 in is going to be a failure. And if we take a look at
21 prior history of these kind of schools they're all the
22 ones that have come through, many of them have come
23 through letters of intent to revoke. So, we can't lose
24 our focus. We have to look at the learning environment
25 and how it's improving.

1 So, there's no question that they have three Ds.
2 So, then we go to the second step is to, did they do
3 anything to fix the problem. You heard the efforts that
4 were made. You heard that typical stumbling blocks that
5 couldn't get it implemented right away was dollars and
6 cents. Now, the State Board for Charter Schools
7 specifically is outside of the financial aspect of schools
8 themselves. They're not responsible for the charter
9 schools and charter schools are different from district
10 schools in the sense that they're really small businesses
11 and if there's not enough money on Friday the founders
12 have to go find or the people there have to go find some
13 money so the teachers get paid or the teachers have to
14 agree not to. All the same problems that a small business
15 faces.
16 So, it's a bit different from the perfect
17 school, the perfect world where everybody can take a test
18 very easily and we can really score them accordingly.
19 They say they make adjustments for the special education
20 and the adjustment is basically they take a special ed kid
21 and they match him up with another kid that had a previous
22 score at the same time. Now, special ed children are
23 special. They all have, they're all different. They have
24 different needs and different disabilities. There's no
25 way to compare which special ed kid they were compared

1 with. All we know is he had a same grade or similar grade
2 in some other time. What's the disability? We can't know
3 that, because nobody is allowed to look at the disability
4 without the parent's permission. So, it's just arbitrary
5 decision on how they compare that so and that's the
6 argument they make with respect to discounting special
7 education students.
8 So, going back to the fact of did they do
9 anything, yes. They sent information down to them, to the
10 State Board staff. Staff said it's deficient, we're going
11 to come out there and these are the items that we'd like
12 to see. They go out to the campus. The School provides
13 all those items. There is a long list of the items that
14 are provided. That list wasn't prepared until after they
15 got back, and the amazing part is that list does not
16 contain one item, sentence, word that says those were not
17 complete. The staff is the one who decides whether the
18 items are complete or not and it's staff who then puts
19 together the suggestion to the Board members as to whether
20 or not this school should be revoked or not revoked. And
21 it's the staff who doesn't provide due process to the
22 School by sending them notice of where the defects are
23 until 24 hours or 48 hours and that's not even sent to the
24 school. The school has to make the extra effort to get on
25 the computer to find out what's sent to the staff so, that

1 they can be prepared at the hearing to rebut the specific
2 items that the staff says were defective. The Board makes
3 the decision, the staff controls the aspect as to whether
4 or not items are sufficient to do this.
5 In this particular matter they submitted
6 evidence. They submitted and talked about how they check,
7 how they have teacher meetings to discuss how to implement
8 this, and the evidence was here. It's there. It wasn't
9 pie in the sky. It was there. And nobody asks to take a
10 look at how the kids are doing and, unfortunately, it's
11 the kids that are really important. That's why we created
12 a separate school system called charter schools, for the
13 kids and parents, because they weren't satisfied with the
14 district.
15 And in this particular case we have to look at
16 the ramifications of the decision and the ramifications of
17 the decision isn't just that we're closing a charter
18 school. It's going to affect 160-some-odd kids and their
19 parents. Forget about the employment level. These
20 teachers are good enough, I'm sure they're going to find
21 another job, but these kids are going to be thrown away,
22 because they're not going to fit into the system they just
23 left. And then where do we go? Another group of lost
24 children. I think that, that shouldn't be the case. And
25 I think that if you take a look at the information that's

1 been submitted there are adequate means that have been
2 submitted by Founding Fathers to show how they're going to
3 proceed and help these children go forward.
4 If we have -- we, obviously, are not going to
5 have the opportunity to see what their results were at
6 this time. However, the effort is well-documented and
7 that's the second part and I think the key part of a
8 revocation in this case. Not going to change the grades,
9 the grades are what they were, you know. Did they take
10 efforts and put in steps to fix it, and I submit to you
11 that we've provided evidence that does illustrate that.
12 That does illustrate that there is a good -- actually, I
13 think a great learning environment at this school, that
14 does provide choices to parents of students of this kind,
15 and is clearly a major alternative to the traditional and
16 probably should be an alternate school, but that's not
17 what we're here for. But you did hear that if we can stay
18 open they are going to apply for the alternative category
19 and I think in that situation they'll be a heck of a lot
20 better as far as meeting grades, et cetera.
21 So, we're asking that you not revoke this
22 charter and, hopefully, we'll provide the appropriate
23 findings of fact and conclusions of law to help you do
24 that.
25 ADMINISTRATIVE LAW JUDGE: Thank you.

1 Rebuttal?
2 MS. ANDERSON: No, Your Honor.
3 ADMINISTRATIVE LAW JUDGE: Okay. Then as
4 previously discussed I will leave the record open for
5 receipt of the transcript, which will be expected by June
6 2nd, and for those findings of fact and conclusions of law
7 submitted by June 23rd. Please, submit those in a
8 Microsoft Word document so that they are usable. And I
9 will close the record as of the June 23rd date and I will
10 issue an order to that effect that the record is being
11 held open for those two express purposes.
12 With that, that will conclude today's
13 proceedings and we will go off the record at this time.
14 MR. CONDOS: Thank you.
15 ADMINISTRATIVE LAW JUDGE: Thank you.
16 (Whereupon, the hearing was concluded at
17 4:44 o'clock p.m.)
18 * * *
19
20
21
22
23
24
25

1 STATE OF ARIZONA)
) ss.
2 COUNTY OF MARICOPA)
3
4 I, ANGELA FRITTS, RPR, do hereby certify:
5 That the foregoing hearing was taken before me, a
6 Certified Reporter for the State of Arizona; that the
7 witnesses, before testifying, were duly sworn by the
8 Administrative Law Judge to tell the whole truth; that the
9 questions propounded to the witnesses and the answers of
10 the witnesses thereto, were taken down by me in shorthand
11 and thereafter reduced to typewriting, under my
12 supervision and direction; that the foregoing pages,
13 numbered 813 through 1032, inclusive, constitute a true
14 and accurate transcript of all the proceedings had upon
15 the taking of said hearing, all done to the best of my
16 skill and ability.
17
18 ELECTRONICALLY SIGNED AND DATED this 30th day of
19 May, 2014
20
21 By /s/ Angela Fritts
22 Angela Fritts, RPR
Certified Reporter No. 50615
23
24
25

1 to in addition to that do a written closing, because the
2 information is going to just be repetitive and I think
3 there's just not, in terms of resources and time would be
4 more appropriately spent to providing the proposed
5 findings of fact and conclusions of law.
6 ADMINISTRATIVE LAW JUDGE: Okay.
7 MR. CONDOS: And the School, obviously,
8 would like to have a closing argument. We -- I thought we
9 had talked about the possibility of doing it orally, but
10 at the very least we would like to have a closing
11 argument, which is really different than a findings of
12 fact and conclusions of law, because it's the persuasive
13 side of it where the other one is conclusory side of it.
14 ADMINISTRATIVE LAW JUDGE: Okay. Then
15 before we get to closings why don't we go ahead and talk
16 about timelines for the proposed.
17 MS. ROWE: You need two weeks, correct?
18 THE REPORTER: Yes.
19 MS. ROWE: Two weeks for the transcript.
20 ADMINISTRATIVE LAW JUDGE: Two weeks for
21 the transcript, not including the holiday.
22 MS. ANDERSON: But the parties do -- the
23 parties have had the transcript for the first three days.
24 ADMINISTRATIVE LAW JUDGE: Oh, okay.
25 MS. ANDERSON: Since the time that it was

1 filed.
2 ADMINISTRATIVE LAW JUDGE: Did I get a copy
3 of that?
4 MS. STILLMAN: It was filed.
5 MS. ANDERSON: Yes.
6 ADMINISTRATIVE LAW JUDGE: Okay. It was
7 probably submitted electronically so I didn't receive a
8 physical copy, so that's fine.
9 MS. STILLMAN: It's another one of these
10 binders.
11 ADMINISTRATIVE LAW JUDGE: Oh, okay.
12 Great. So, the transcript for today -- and we'll go off
13 the record and do all this off the record.
14 (Discussion off the record.)
15 ADMINISTRATIVE LAW JUDGE: Okay. We're
16 back on the record for closing argument.
17 MS. ANDERSON: Thank you, Your Honor.
18 Since the parties will be submitting
19 proposed findings of fact and conclusions of law allowing
20 for detailed findings based on references to the record in
21 this matter, which has been lengthy, my closing argument
22 is going to be very brief and general.
23 While the Arizona legislature established
24 charter schools to provide additional academic choices for
25 parents and pupils and to serve as an alternative to

1 traditional public schools they also established and
2 defined charter schools to provide a learning environment
3 that will improve pupil achievement.
4 As a sponsoring entity of Jefferson Academy
5 of Advanced Learning the Charter Board in implementing its
6 oversight and administrative responsibility must ground
7 its action in evidence of Founding Fathers Academy's
8 performance in accordance with its adopted performance
9 framework. It's adopted performance framework, which is
10 Board's Exhibit 2, sets forth the academic performance
11 expectations of its charter schools and a measurement of
12 sufficient progress toward those identified academic
13 performance expectations. For the school whose academic
14 performance did not meet the Board's academic performance
15 standards Founding Fathers has failed to meet the Board's
16 academic performance expectations.
17 Founding Fathers offered its special
18 education population and/or its free and reduced lunch
19 population as the basis for its poor academic performance
20 and the Board's failure to meet the Board's academic
21 performance expectations, but the Board's framework takes
22 into consideration a school's population, takes into
23 consideration its special education and free and reduced
24 lunch subgroup, specifically by breaking out and
25 identifying the school's student growth percentile, noting

1 both the school's overall student growth percentile, as
2 well as the student growth percentile of the bottom lowest
3 performing 25 percent students.
4 The Board's framework also takes into
5 consideration a school's population by conducting a
6 comparative analysis in which the performance of the
7 school's subgroup populations on the statewide assessment
8 are compared to the performance of the same subgroup
9 populations across the state. The Board's framework
10 considers the academic achievement of students at other
11 schools with a similar subgroup population. This allows
12 the Board to judge how students are performing in a
13 particular charter school compared to how students would
14 be expected to perform based on the performance of similar
15 student populations across the state. In these two
16 subgroup populations Founding Fathers falls far below the
17 statewide performance in those subgroups.
18 Despite its having failed to meet the Board's
19 academic performance expectations and as provided with the
20 Board's Academic Performance Framework Founding Fathers
21 was given the opportunity to demonstrate that it was
22 making sufficient progress toward the academic performance
23 expectations set forth in the framework. The opportunity
24 to demonstrate that despite its failure to meet the
25 Board's academic performance expectations that it has

1 systems of curriculum, instruction, assessment,
2 professional development in place, and that these systems
3 evidence a sustained increase in student growth and
4 proficiency in math and reading.
5 Founding Fathers was provided the opportunity to
6 submit a Demonstration of Sufficient Progress document,
7 and following its receipt of the Board's initial
8 evaluation of that document the opportunity to provide
9 additional evidence demonstrating its progress toward
10 meeting the Board's academic performance expectations.
11 Additional opportunity was provided at the site visit and
12 following the site visit.
13 Using the evaluation criteria in its academic
14 framework to analyze Founding Fathers demonstration Board
15 Staff determined that Founding Fathers had failed to
16 demonstrate progress, sufficient progress towards the
17 academic performance expectations set forth in the
18 framework, which under A.R.S. §15-183 I3 is the basis for
19 the Board's decision to revoke the charter of Founding
20 Fathers. Having been required to take action as a result
21 of its being informed by the Department of Education that
22 Jefferson Academy was assigned a letter grade of F. As
23 well as, would have reached that point under the Board's
24 own intervention schedule. Jefferson Academy's letter
25 grade of F came as a result of its third year consecutive

1 letter grade of D. Under the Department's achievement
2 profile system a letter grade of D demonstrates a below
3 average level of performance and a letter grade of F
4 demonstrates a failing level of performance.
5 You heard the testimony of quite a few parents
6 that praised the work that Jefferson Academy has done with
7 their disabled students, students with autism and
8 traumatic brain injury. And as a parent of a child with
9 Autism Spectrum Disorder myself I can understand the
10 significance to them of their description of their
11 children's social achievements. Feeling accepted, gaining
12 confidence, planning and caring out details of a birthday
13 party, these are difficult and significant achievements
14 for an autistic child, but the performance of Arizona
15 schools is measured by the academic achievement of its
16 students.
17 For a charter school sponsored by the Arizona
18 State Board of Charter Schools the school must meet or
19 demonstrate sufficient progress toward the academic
20 performance expectations that the Board has set forth in
21 it Academic Performance Framework, and Jefferson Academy
22 has failed to do that, and under Arizona law that is the
23 basis for revocation of its charter. Thank you.
24 ADMINISTRATIVE LAW JUDGE: Closing?
25 MR. CONDOS: Thank you, Your Honor.

1 It's been a long tenuous hearing here, but
2 I think there's a couple key factors that are just not
3 focused on.
4 Before we had the rubric, before we had the
5 dashboard, the law was passed for specific reasons.
6 Reason number one is to provide a learning environment
7 that will improve pupil achievement. Second one was that
8 parents should have an academic choice as to where they
9 want to place their students. The third one was that we
10 were creating a group of schools that will be, that would
11 be alternative to the traditional schools.
12 Charter contracts were entered into at this
13 time and still to the present. Charter contracts were
14 different depending on the time that they were executed.
15 Charter contract basically is the obligation for the
16 charter to perform what is required of it under the
17 contract. So, in this particular matter all these laws,
18 one submission would be, have come into effect afterwards
19 even though the school and the mission has stayed fairly
20 consistent.
21 What is forgotten as we look at the three
22 Ds that they've gotten is they were performing and
23 performing plus for the prior four years and it seems like
24 that hasn't been taken into consideration. It's not a
25 school that has not done its job throughout the whole

1 time. It has had its problems for the last three years.
2 Now, you heard testimony that there were a number of
3 reasons as to what had happened. As time went on and
4 their skills were advertised through word of mouth it
5 became the school in the area to send your special ed
6 student, to send your student who was not making it in the
7 traditional district, and the increase of that population
8 lowered the scores.
9 So, the question is: Did the school just
10 ignore it or did it take steps to try to rectify it and
11 increase the scores of its students? But even before we
12 get into that, the State has come up with a sole criteria
13 for a learning environment and that's the scores.
14 Now, an environment is more than just one
15 thing. If we look at the biological environment, you
16 know, you've got water, you've got plants, you've got the
17 animals, insects. It's more than just one thing. So, an
18 education environment is also clearly more than one thing.
19 In reality, the Board, unfortunately, has just decided
20 that it's just score.
21 In this school you clearly see a very good
22 educational environment, because the environment not only
23 includes the curriculum and the teaching method, but it
24 includes teachers and people who are very interested and
25 invested in the students. It includes different types of

1 educational techniques that, you know, would not be found
2 in the traditional school and through these techniques
3 these special children have achieved. Every teacher, with
4 the exception of the one who's in the hospital right now,
5 has come to testify on behalf of this school and not only
6 testify, but have brought in their numbers, their
7 computations to show how these children are moving up.
8 So, if we look at the statutes and we look at
9 this learning environment then this school is providing a
10 big alternative to the traditional school districts and a
11 clear academic choice for the parents, as was illustrated
12 by the parents who came here and testified, and the
13 letters, and the poles that were committed. This is a
14 school that's well liked by everybody that goes there and
15 it's not a school that's just babysitting students. It's
16 a school that's making a difference.
17 You know, the academic standards also talk about
18 getting preparedness for college. We see that this school
19 is, even with this population is able to cooperate with
20 the local community college so that some of their high
21 school students graduate not only with a high school
22 diploma, but one specifically, is going to have an
23 associate's degree as well, and others have already
24 achieved credit towards it. So, you know, there's
25 evidence of educational increase to the level that the

1 Board wants, but the world doesn't circulate around solely
2 college graduates. We have -- there's other people in the
3 world, not everyone is prepared to go to college, not
4 everyone wants to go to college. But this school prepares
5 people to do, to function in real life and I submit that's
6 the whole purpose of education is to teach people so they
7 can function when they're adults.
8 I mean, we have one girl who testified here
9 herself who was in Chandler District, which is considered
10 an A district, and she was still only reading at a second
11 grade level and for all practical purposes they had shoved
12 her along. You heard that her mom heard about this
13 school, checked into this school, left Chandler, moved to
14 Show Low and submitted this girl into this school and she
15 blossomed. She came out of her shell. In fact, she was
16 suicidal, as mom said, drawing that one picture saying,
17 "I'm sorry." You know, we have too many teenagers that
18 are falling into that. Here's one that was saved and she
19 was saved by this school and she found, with her
20 confidence she found that she can do, has another talent
21 that isn't necessarily a full book learning talent. She's
22 found a creativity to be a cake designer and has now
23 created a goal to be, to go to New Jersey where the guy's
24 on TV. Now, this is a child that was lost in the system
25 and now is found in real life.

1 So, those are factors that go back to the
2 charter school law as to why these charters were created
3 and it also talks about the learning environment.
4 Now, in this particular case the sort of the
5 match was the AIMS test, which was the third D. The
6 article that was submitted by someone who is with the
7 Arizona Charter School, if it's read, will talk about some
8 defects that the AIMS had and primarily it deals with the,
9 you know, the group, the downtrodden group, children from
10 high poverty levels, and I submit you can also put the
11 special education children in there, because you go
12 through life trying to show these kids the educational
13 life that they have, they can achieve, they can do better,
14 and the state gives them a test that they fail every year
15 and this school picks them up and shows them with a
16 positive attitude and continues to go forward.
17 Now, the bottom line question is: Will these
18 kids ever achieve what the State Board for Charter School
19 wants and if they won't, then any school that takes them
20 in is going to be a failure. And if we take a look at
21 prior history of these kind of schools they're all the
22 ones that have come through, many of them have come
23 through letters of intent to revoke. So, we can't lose
24 our focus. We have to look at the learning environment
25 and how it's improving.

1 So, there's no question that they have three Ds.
2 So, then we go to the second step is to, did they do
3 anything to fix the problem. You heard the efforts that
4 were made. You heard that typical stumbling blocks that
5 couldn't get it implemented right away was dollars and
6 cents. Now, the State Board for Charter Schools
7 specifically is outside of the financial aspect of schools
8 themselves. They're not responsible for the charter
9 schools and charter schools are different from district
10 schools in the sense that they're really small businesses
11 and if there's not enough money on Friday the founders
12 have to go find or the people there have to go find some
13 money so the teachers get paid or the teachers have to
14 agree not to. All the same problems that a small business
15 faces.
16 So, it's a bit different from the perfect
17 school, the perfect world where everybody can take a test
18 very easily and we can really score them accordingly.
19 They say they make adjustments for the special education
20 and the adjustment is basically they take a special ed kid
21 and they match him up with another kid that had a previous
22 score at the same time. Now, special ed children are
23 special. They all have, they're all different. They have
24 different needs and different disabilities. There's no
25 way to compare which special ed kid they were compared

1 with. All we know is he had a same grade or similar grade
2 in some other time. What's the disability? We can't know
3 that, because nobody is allowed to look at the disability
4 without the parent's permission. So, it's just arbitrary
5 decision on how they compare that so and that's the
6 argument they make with respect to discounting special
7 education students.
8 So, going back to the fact of did they do
9 anything, yes. They sent information down to them, to the
10 State Board staff. Staff said it's deficient, we're going
11 to come out there and these are the items that we'd like
12 to see. They go out to the campus. The School provides
13 all those items. There is a long list of the items that
14 are provided. That list wasn't prepared until after they
15 got back, and the amazing part is that list does not
16 contain one item, sentence, word that says those were not
17 complete. The staff is the one who decides whether the
18 items are complete or not and it's staff who then puts
19 together the suggestion to the Board members as to whether
20 or not this school should be revoked or not revoked. And
21 it's the staff who doesn't provide due process to the
22 School by sending them notice of where the defects are
23 until 24 hours or 48 hours and that's not even sent to the
24 school. The school has to make the extra effort to get on
25 the computer to find out what's sent to the staff so, that

1 they can be prepared at the hearing to rebut the specific
2 items that the staff says were defective. The Board makes
3 the decision, the staff controls the aspect as to whether
4 or not items are sufficient to do this.
5 In this particular matter they submitted
6 evidence. They submitted and talked about how they check,
7 how they have teacher meetings to discuss how to implement
8 this, and the evidence was here. It's there. It wasn't
9 pie in the sky. It was there. And nobody asks to take a
10 look at how the kids are doing and, unfortunately, it's
11 the kids that are really important. That's why we created
12 a separate school system called charter schools, for the
13 kids and parents, because they weren't satisfied with the
14 district.
15 And in this particular case we have to look at
16 the ramifications of the decision and the ramifications of
17 the decision isn't just that we're closing a charter
18 school. It's going to affect 160-some-odd kids and their
19 parents. Forget about the employment level. These
20 teachers are good enough, I'm sure they're going to find
21 another job, but these kids are going to be thrown away,
22 because they're not going to fit into the system they just
23 left. And then where do we go? Another group of lost
24 children. I think that, that shouldn't be the case. And
25 I think that if you take a look at the information that's

1 been submitted there are adequate means that have been
2 submitted by Founding Fathers to show how they're going to
3 proceed and help these children go forward.
4 If we have -- we, obviously, are not going to
5 have the opportunity to see what their results were at
6 this time. However, the effort is well-documented and
7 that's the second part and I think the key part of a
8 revocation in this case. Not going to change the grades,
9 the grades are what they were, you know. Did they take
10 efforts and put in steps to fix it, and I submit to you
11 that we've provided evidence that does illustrate that.
12 That does illustrate that there is a good -- actually, I
13 think a great learning environment at this school, that
14 does provide choices to parents of students of this kind,
15 and is clearly a major alternative to the traditional and
16 probably should be an alternate school, but that's not
17 what we're here for. But you did hear that if we can stay
18 open they are going to apply for the alternative category
19 and I think in that situation they'll be a heck of a lot
20 better as far as meeting grades, et cetera.
21 So, we're asking that you not revoke this
22 charter and, hopefully, we'll provide the appropriate
23 findings of fact and conclusions of law to help you do
24 that.
25 ADMINISTRATIVE LAW JUDGE: Thank you.

1 Rebuttal?
2 MS. ANDERSON: No, Your Honor.
3 ADMINISTRATIVE LAW JUDGE: Okay. Then as
4 previously discussed I will leave the record open for
5 receipt of the transcript, which will be expected by June
6 2nd, and for those findings of fact and conclusions of law
7 submitted by June 23rd. Please, submit those in a
8 Microsoft Word document so that they are usable. And I
9 will close the record as of the June 23rd date and I will
10 issue an order to that effect that the record is being
11 held open for those two express purposes.
12 With that, that will conclude today's
13 proceedings and we will go off the record at this time.
14 MR. CONDOS: Thank you.
15 ADMINISTRATIVE LAW JUDGE: Thank you.
16 (Whereupon, the hearing was concluded at
17 4:44 o'clock p.m.)
18 * * *
19
20
21
22
23
24
25

1 STATE OF ARIZONA)
) ss.
2 COUNTY OF MARICOPA)
3
4 I, ANGELA FRITTS, RPR, do hereby certify:
5 That the foregoing hearing was taken before me, a
6 Certified Reporter for the State of Arizona; that the
7 witnesses, before testifying, were duly sworn by the
8 Administrative Law Judge to tell the whole truth; that the
9 questions propounded to the witnesses and the answers of
10 the witnesses thereto, were taken down by me in shorthand
11 and thereafter reduced to typewriting, under my
12 supervision and direction; that the foregoing pages,
13 numbered 813 through 1032, inclusive, constitute a true
14 and accurate transcript of all the proceedings had upon
15 the taking of said hearing, all done to the best of my
16 skill and ability.
17
18 ELECTRONICALLY SIGNED AND DATED this 30th day of
19 May, 2014
20
21 By /s/ Angela Fritts
22 Angela Fritts, RPR
Certified Reporter No. 50615
23
24
25