



Colorado State Board of Education

TRANSCRIPT OF PROCEEDINGS
BEFORE THE
COLORADO DEPARTMENT OF EDUCATION COMMISSION
DENVER, COLORADO
March 9, 2016, Part 2

BE IT REMEMBERED THAT on March 9, 2016, the
above-entitled meeting was conducted at the Colorado
Department of Education, before the following Board
Members:

Steven Durham (R), Chairman
Angelika Schroeder (D), Vice Chairman
Valentina (Val) Flores (D)
Jane Goff (D)
Pam Mazanec (R)
Joyce Rankin (R)
Debora Scheffel (R)



1 CHAIRMAN DURHAM: All right. We'll come
2 back to order and I just observed that when we're -- when
3 we're ahead of schedule and early for public comment. Ms.
4 Burdsall doesn't like me to start early but apparently it's
5 okay to start a little late from a sort of a noticed
6 perspective. So let's start. We have a -- a few people
7 signed up this morning. We'll start with Debra Cole.
8 Debra.

9 MS. COLE: Mr. Chairman, Members of the
10 Board, good morning. A report titled, The Future of Jobs,
11 Employment Skills and Workforce Strategy for the Fourth
12 Industrial Revolution, January 2016, states in its
13 introduction, "By evaluating the future labor market from
14 the perspective of some of the world's largest employers,
15 we hope to improve the current stock of knowledge around
16 anticipated skills needs, recruitment patterns and
17 occupational requirements. Furthermore, it is our hope
18 that this knowledge can incentivize and enhance
19 partnerships between governments, educators, training
20 providers, workers, and employers in order to better manage
21 the transformative impact of the Fourth Industrial
22 Revolution on employment skills and education."

23 Compare this vision of a managed
24 bureaucratized world economy with the observations of
25 Herbert Spencer, a biologist, social scientist and



1 political theorist, written in the Great Britain of 1853.
2 In this passage, Spencer challenges the statist mindset
3 that believes that nothing can be achieved without
4 government involvement and direction. "Though society has,
5 generation after generation, been growing to developments
6 which none foresaw, yet there is no practical belief an
7 unforeseen developments in the future. The parliamentary
8 debates constitute an elaborate balancing of probabilities,
9 having for data things as they are.

10 Meanwhile every day adds new elements to
11 things as they are, and seemingly improbably results
12 constantly occur. Who a few years ago expected that a
13 Leicester Square refugee would shortly become the Emperor
14 of the French? Who looked for free trade from a landlord's
15 Ministry? Who dreamed that the Irish overpopulation would
16 spontaneously cure itself, as it is now doing? A barber's
17 shop was not a probable-looking place for the germination
18 of the cotton-manufacture. No one supposed that important
19 agricultural improvements would come from a Leadenhall
20 Street tradesmen. A farmer would have been the last man
21 thought of to bring to bear the screw-propulsion of
22 steamships. The invention of a new species of architecture
23 we should have hoped for -- from anyone rather than a
24 gardener. Yet while the most unexpected changes are daily
25 wrought out in the strangest ways, legislation daily



1 assumes that things will go just as human foresight thinks
2 they will go."

3 Here, we have two radically distinct visions
4 of human action. One, free, creative, infinitely
5 unexpected and surprising and springing primarily from
6 individual human enterprise and inventiveness. The other,
7 what Lenin defined as communism namely, "The scientific
8 management of human affairs." I'd invite you to plow
9 through the 327 page proposal titled Colorado's Combined
10 Plan for Execution of Workforce Development Activities
11 Developed in Accordance with the Workforce Innovation and
12 Opportunity Act. Imposing this vision of a static and
13 sterile human labor assembly line in return for the promise
14 of federal dollars. At least Lenin's five year plan had a
15 shorter title. Thank you.

16 CHAIRMAN DURHAM: Thank you Ms. Cole. Yes
17 Ma'am?

18 UNIDENTIFIED VOICE: If I may. I was just
19 describing a heart earring, it's black with rhinestones
20 around it. Anybody's missing it? I have it here.

21 CHAIRMAN DURHAM: All right. Lost and found
22 is right here. Todd Bentler Pinnacle is gonna wait 'til
23 later. I don't see him here, okay. Tony Sanchez. Mr.
24 Sanchez?



1 MR. SANCHEZ: Hello. Good morning Chairman
2 and members. I just wanted to -- I represent Freedom for
3 Education. I'm the executive director of this
4 organization. We have thousands of families throughout the
5 state, where we talk about issues such as common core, data
6 collecting, parental rights and -- I'm talking in regards
7 to the Kindergarten Readiness Bill, you know, just first of
8 I wanna say that, we look at this as the difference between
9 who has more say? Parents and guardians versus the state.
10 I would also like to point out that -- and commend that I'm
11 glad that you're looking at the direction of removing
12 personal identifiers and aggregate information. That's --
13 that's a great path. But I also want to point out that
14 sometimes in some of the language we hear, things like opt
15 out -- well, if you're in a situation -- financially in
16 need or poor you -- if you're already on assistance, you
17 can't necessarily opt out. You also have to point out this
18 if we're opting out, wouldn't it be better to have an opt
19 in? In other words, if it's so great why aren't families
20 for this? Why aren't families clamoring for them to share
21 their information? I just have to point this out because
22 if we were truly from the perspective of the parent or the
23 family, we would say we have this amazing program we'd like
24 you all to be a part of it. But that's not what's
25 happening. We often hear people say, well you know what



1 it's so great, and you can opt out. That tells me that
2 we're actually from the perspective of government, not
3 necessarily of the family. And I also wanna point out that
4 effects, like I said, the poor and --and we wanna be able
5 to keep the perspective of the parent and family but most
6 of all we wanna make sure that we make sure -- that we
7 understand why we're doing what we're doing. Once we lose
8 our liberty, once we say we do this and government does
9 this it's hard to take this back. Now, if you have a
10 problem with your car, you go to the car shop and you can
11 deal with it there. You don't put your car at the
12 legislature. Okay.

13 So my point thing, we're talking about
14 children. And if you are going to have a problem here, you
15 don't want to have an extra step to be able to deal with an
16 issue that is very important to your family and kids. So I
17 want you all to keep that in perspective when we're looking
18 at this issue and make sure we provide as less information
19 as possible. I would prefer none but understanding that
20 you have to provide some, I would say do that and keep it
21 local as local as possible. And one more thing, I also
22 wanted to -- before I forget, there's also a concern about
23 HIPAA regulations when it comes -- when it come's to
24 collecting these data, so I'd like to bring that up as



1 well. If we can even do this in the first place. But
2 thank you very much.

3 CHAIRMAN DURHAM: Thank you Mr. Sanchez.
4 Loren Rome? See how close I got with that. It looks like
5 Loren.

6 MS. ROME: I'm short. Sorry. Can you --

7 CHAIRMAN DURHAM: Okay. Just pull -- yeah
8 pull it towards you. It won't break.

9 MS. ROME: Hi everyone and it's a pleasure
10 to be in front of the School Board. I am a concerned
11 citizen. I've never spoke before like this but that's why
12 I'm speaking now is because I'm concerned. I'm used to be
13 a teacher myself. I was with Special Needs taught in
14 Illinois. I moved here in 2007. I helped with
15 kindergarten through 12 and with the special needs
16 children. But then I became a social worker and I'm a
17 retired social worker where I helped more children, more
18 families and I'm concerned about what's going on today and
19 what I'm reading. But first of all, I wanna thank you all.
20 I think you've all done a great job in -- in representing
21 Colorado. It's a pleasure to live in this state.

22 But my concern is with privacy for our
23 children. And I'm -- I'm concerned about letting data get
24 out there that shouldn't be out there. We need to protect
25 the children and their families. And as far as, like Tony



1 had just mentioned HIPAA, I was a social worker when that
2 first started. I remember first starting handing out the
3 HIPAA papers for privacy and I just -- I wanna speak today
4 to ask you to still consider the privacy of our students
5 and our families. It doesn't need to be spread with
6 everyone. Yes, government is very important and I
7 appreciate government, but I just want you to consider the
8 privacy issue. Thank you.

9 CHAIRMAN DURHAM: Thank you. Charles Rome.
10 They get the --

11 MR. ROME: Mr. Chairman, Board Members.
12 I'll just like to echo the sentiments of Mr. Sanchez and my
13 wife. Well, I certainly commend the intent of the School
14 Readiness -- Kindergarten Readiness in particular program
15 that's being proposed. I would just like to encourage you
16 to, by all means possible, protect the privacy of the
17 children and limit the amount of information that's shared
18 to the greatest extent possible. Thank you very much.

19 CHAIRMAN DURHAM: Thank you. Looks like
20 Luis Poza? P-O-Z-A.

21 MR. POZA: Yes, Poza.

22 CHAIRMAN DURHAM: Oh, thank you.

23 MR. POZA: Okay. Good morning Members of
24 the Board, Mr. Commissioner, thank you for this opportunity
25 to speak. I'm Dr. Luis Poza. I'm a professor at the



1 University of Colorado, Denver in the School of Education
2 Human Development. Sorry, I'm Dr. Luis Poza, Professor at
3 the University of Colorado, Denver, School of Education and
4 Human Development, with expertise in second language
5 acquisition, bilingualism, and bilingual education. I
6 speak today as a Board Member of the Colorado Association
7 of Bilingual Education, CABE and primarily as a member of
8 HELDE, Higher Educators and Linguistically Diverse
9 Education. A consortium of faculty, researchers and center
10 affiliates from 16 institutions across the state with
11 interests and a sound knowledge based in the education of
12 students learning English in schools.

13 As you'll also see in HELDE's written
14 comment on the matter, we strongly urge you not to pass the
15 new READ Act Rules implementing English interim testing.
16 My points to you in the case are twofold. First, as
17 scholars and researchers, we are familiar with and
18 attentive to data, how to collect it, make sense of it and
19 use it to improve schooling outcomes. Nothing in the
20 research suggests that data from reading tests in English
21 and normed with mostly native English speakers in
22 monolingual English instruction settings will yield valid
23 or reliable data for students at early levels of English
24 proficiency and receiving their literacy instruction in
25 another language. This would be like using storybooks in



1 Dutch to label any of the highly competent readers in this
2 room significantly reading deficient.

3 We should not mistake language development
4 needs for literacy skills. The current rules allow for
5 those closest to students and their bilingual curriculum
6 because there are many different bilingual program models
7 to decide when the approved English assessments can be
8 reasonably administered and it should remain this way to
9 ensure we are properly evaluating students literacy
10 development. And until students English language
11 proficiency suffice for them to take the approved reading
12 test, Access, then not reading sub skills tests per say,
13 does measure reading skills broadly with sensitivity to
14 different stages of English language development.

15 Second, we recognize the part of the impetus
16 for these proposed revisions is the concern that students
17 English literacy skills will not be well attended to. We
18 understand and share the Board's recognition that English
19 competencies including literacy are integral to survival in
20 this country. And we contend that the current rules do
21 nothing to undermine this goal. Our written comment
22 includes a litany of references on the matter but I draw
23 the Board's attention to the three most recent studies in
24 particular.



1 Manske entered in 2014, Valentino entered
2 in 2015 and the third by stealing colleagues forthcoming
3 this year. All consider large scale longitudinal data sets
4 of student enrollment and outcomes enlarge urban districts
5 (inaudible). All three use quasi experimental designs.
6 The gold standard in social science research, and all three
7 find that students in bilingual programs meet or outperform
8 their peers with match characteristics in sheltered English
9 instruction by fifth grade. Both in terms of
10 reclassification to English proficiency and in academic
11 subjects, which it should be noted, require strong
12 literacy. So once more given the importance of collecting
13 and using sound data to guide our decisions, the other
14 members of HELDE and I beseech you not to pass these
15 proposed revisions. Thank you.

16 CHAIRMAN DURHAM: Thank you. Well, Susan
17 Cordova?

18 MS. CORDOVA: Good morning. On behalf of
19 the Denver Public Schools I appreciate and share the
20 Board's commitment to advancing early literacy across the
21 state. At the last board meeting I shared with the Board
22 our concerns regarding the READ Act proposed rule changes.
23 I would like to review a few of the key points I raised and
24 share some updates. The Denver Public Schools has invested
25 deeply in improving literacy for our early learners of



1 which nearly 40 percent are English learners. Through this
2 work we are proud to say that Denver English learners have
3 consistently been reading at higher levels than English
4 learners outside of Denver for the past four years. In
5 that spirit of shared commitment to improving early
6 literacy attainment, we are expressing our deep concern
7 over the proposed rule changes to the READ Act.

8 Furthermore, this change limits our local
9 control and that it requires us to go beyond the READ Act
10 requirements with an -- a requirement of double testing
11 students. As I mentioned at the last meeting, the attorney
12 general explained that -- during that same discussion that
13 we had in 2014, the Act was intended to allow districts to
14 test English learners for their reading ability in the
15 language of instruction. Here are a few highlights. The
16 purpose of the READ Act is to ensure that students become
17 proficient in the skill of reading. The READ Acts focuses
18 on the skill not the language in which it is employed. The
19 attorney general's formal opinion affirmed the purpose of
20 the Act and each district's ability to determine the
21 assessment strategy that best fits its local programmatic
22 approach.

23 The proposed change seeks to reopen this
24 discussion even though the language of the Act has not
25 changed and the attorney general has provided a formal



1 opinion. The revision is not in the interest of students
2 because of the burden that double testing provides which
3 provides limited benefit. It over unnecessarily
4 overburdens a specific group of students that districts
5 will have to double test even though the second test will
6 give little -- little instructional value. This fall, for
7 example, DPS tested over 10,000 students for a significant
8 reading deficiency. This change would require double
9 assessment of 5000 of those students. Double testing takes
10 English learners away from English language development and
11 other instructional activities that their non EL peers will
12 receive while English learners are being double tested.

13 Since our last meeting, multiple
14 organizations and experts have come together to express
15 their concern and opposition to the proposed rule change.
16 Currently, organizations have expressed concern include
17 CABE, HELDE, CASE, CASB , CEA and the Colorado Rural
18 Schools Alliance. Six school district English acquisition
19 directors from across the state including DPS have written
20 a letter in opposition to this proposed rule change. These
21 districts include Adams 14, Boulder County, Eagle County,
22 Jefferson County, the Roaring Fork School District, as well
23 as two recent additions Douglas County and Poudre School --
24 School District. We are united in the knowledge that this
25 proposed rule change does not align with the work we did



1 side by side with CDE on the READ Act rules last May. We
2 urge you to reject these proposed rule changes and in
3 addition would like to assert that these changes impact
4 local control and represent a dangerous overreach. Thank
5 you.

6 CHAIRMAN DURHAM: Thank you. Kathy Richard.

7 MS. RICHARD: I have copies of my comments
8 for the Board (inaudible). Hello. Thank you for hearing
9 me. I was here last month, and I commented on the
10 Kindergarten Readiness initiative and I asked the Board to
11 take an action to respond to my questions. And in case you
12 didn't remember what those are, I have those on the first
13 page.

14 I'm gonna go to the second page now and
15 kinda summarize the intent of those questions. So my
16 understanding is that this initiative is in response to
17 Senate Bill 08212, which I assume is actually law right
18 now. And when I look at that, I see that the kind of
19 additional words are underlined and what I've underlined
20 here which talks about students develop -- to develop and
21 demonstrate such skills as creativity, innovation, and I
22 won't read all of those. When I look at the fact sheet
23 from CDE, I see that they are collecting, and supposedly in
24 response to this legislation, information about physical
25 well-being and motor development, social, and emotional



1 development. So my question at this point is I don't see
2 any law that is requiring the schools to collect these
3 data. I am also concerned about the fact that this falls
4 is under HIPAA, and so I would like a response from you
5 about why you think that you have the right to even collect
6 these data.

7 And if you wanna comment now, that would be
8 great. I looked at tier score then I read their technical
9 report on why this program is affected -- effective. It
10 states that this is for birth to kindergarten children.
11 And we are talking about collecting data until third grade.
12 So my question is why are you using a product that is not
13 designed for what you stated you're gonna use these data
14 for? They've also conducted their effectiveness test with
15 a one-year test. So this seems premature to me that a
16 program that is going to cover a development of a child
17 over several years has had one year to test its
18 effectiveness. And I think it's premature for this Board
19 to consider this particular product at this point.

20 There's some reasons words like strong
21 statistical evidence, but they don't even have references
22 to actual measured data. So should we be satisfied with
23 qualitative data from this company? Development of theory
24 is another term used in the report and when you look for
25 development of theory, you find that there are numerous



1 theories out there. So which one did they use? The report
2 claims that teachers will understand the data and will use
3 it to help children succeed. How are teachers going to do
4 that? Are they using the TS Gold curriculum? Are they
5 expected to develop individual teaching strategies for each
6 student? Is this even possible? Budget questions. I had
7 several of those, which I think include purchase -- may I
8 continue to speak so I can go -- go through the rest of my
9 comments, please?

10 CHAIRMAN DURHAM: If you can conclude in
11 about two sentences, yes.

12 MS. RICHARD: I -- I can't. Then let me ask
13 you a question. Are you guys -- can you take an action to
14 respond to my questions? I can conclude with my -- okay so
15 in conclusion, I understand that you are not paid for what
16 you do, so let me say thank you for what you are doing for
17 educating our children. I appreciate that. However, you
18 are our voice, the citizens of Colorado. Because you have
19 taken on this responsibility, due diligence needs to be
20 taken on each measure considered by the Board. I'm
21 respectfully requesting that if you do not know the answers
22 to these questions or any of those that people might have,
23 then you do not vote on this measure until you do. Thank
24 you for your time.

25 CHAIRMAN DURHAM: Thank you. Jorge Garcia.



1 MR. GARCIA: Good morning. My name is Jorge
2 Garcia. I'm the Director of the BUENO Policy Center. I'm
3 here to urge you to vote no or to reject the Rule 3.04.
4 There are many reasons for this. You've --you've heard and
5 read many of them. I'm sure, there are disagreements at --
6 your attorney would say that you have the legal authority
7 to -- do this. I would say that you do not, but if
8 attorneys didn't disagree we wouldn't have the need for
9 judges. I do want to ask you to look carefully and
10 critically at one of the slides that's going to be
11 presented to you today by staff. I feel for staff, because
12 the -- the department has -- has been asked to provide you
13 with the rule and I -- I believe they're conflicted and
14 being able to provide you with something that does what you
15 want in this particular context.

16 The slide entitled Current Assessment
17 Requirements by Literacy Program Model has a couple of
18 asterisks comments. And those comments say that when a
19 student is tested in English there's an asterisk that says,
20 may refute with body of evidence. And I ask you to think
21 about this critically. If the data from the English tests,
22 on students who are not proficient in English -- if that
23 data were valid and reliable, would the department say it
24 can be refuted with evidence from the teacher? I suggest
25 that they would not. They -- I suggest that because



1 students who are non- English learners, who are assessed in
2 English, don't have that same asterisk.

3 So there's an admission that the assessments
4 in English, when you consider that variable of not being
5 proficient in English, that that assessment does not yield
6 valid and reliable results, and I suggest that, along with
7 all the other reasons that have been given to you, that
8 this reason is enough not to require schools and teachers
9 to administer an assessment and not to require the
10 department to ask the schools, to require the schools to do
11 this when they know through these asterisks, they know that
12 the data are not going to be valid or reliable. It's a
13 waste of their time. But most importantly, it's a waste of
14 our student's time. More than anything else, the biggest
15 reason to reject this revision is that it's not good for
16 kids. Thank you for your consideration.

17 CHAIRMAN DURHAM: Thank you. Let's see,
18 Robert Chase.

19 MR. CHASE: Mr. Chair, Members of the Board.
20 I would like to suggest that Colorado's Educational Policy
21 is grossly misdirected. The Department of Higher
22 Education's own data indicate that approximately 35 percent
23 of high school graduates in Colorado, admitted to higher
24 education, must be enrolled in remedial Mathematics or
25 English courses or both. This is -- it's also been



1 claimed. They claimed that the rate of remediation has
2 been dropping. They've produced a graph, a continuous
3 graph showing a very slight but consistent decline. This
4 is over the period in which the criteria for assigning
5 students to remedial courses have been being changed.

6 So on the face of it, an effort to cook the
7 books is apparent when you look at the DHE report. But
8 even if you take that data as accurate, 35 percent of every
9 -- of all the students admitted to college in Colorado to
10 State Schools need remediation. This strongly suggests
11 that half or more of our high school graduates are
12 unqualified. Secondary education in -- public secondary
13 education in Colorado has failed catastrophically. This is
14 a fact. We need to institute exit exams that test for
15 competence and deal with the consequences whatever they may
16 be. And I realized that they are enormous. The hardest
17 thing to deal with is the psychology of it all. Because
18 our education establishment and media and supposed leaders
19 -- leaders, although Colorado has no political leadership
20 worthy of the name, have been telling us, this is -- this
21 is not peculiar to Colorado, but -- but it's certainly
22 worse here. The problem of graduating unqualified students
23 is completely out of control in Colorado.

24 But when you are telling people that the
25 chief problem in education is a failure to graduate enough



1 students when the -- when in fact the opposite is the
2 problem. We have good -- have good reason to believe that
3 perhaps half of all the students or even more, graduated
4 from Colorado high schools, are not proficient enough to
5 enter a beginning college course. They have not learned
6 basic Algebra, they are not able to compose a coherent
7 sentence, paragraph, much less write an essay. Drop
8 everything else. Forget what the General Assembly is
9 doing. It is counterproductive. Ignore the
10 recommendations of staff. Deal with reality of the
11 catastrophic failure of public secondary education in
12 Colorado.

13 CHAIRMAN DURHAM: Thank you Mr. Chase.
14 Okay, that concludes the public comment session. We'll now
15 proceed to item 10.01. It would be the -- Yes ma'am?

16 MS. SAMPAIO: I failed to sign in. I
17 apologize. Is it too late for me coming now?

18 CHAIRMAN DURHAM: Well, we're still under
19 budget time-wise, so if you'd like to go ahead-

20 MS. SAMPAIO: Thank you.

21 CHAIRMAN DURHAM: Okay.

22 MS. SAMPAIO: My name is Sara Sampaio, and
23 I'm speaking as a concerned parent, voter, and taxpayer.
24 The issue of data privacy goes to the hearts of a parent-
25 child relationship. Please do not insert the state as a



1 wedge between the parent and child. Please do not use your
2 right of access to our children, simply by virtue of the
3 law requiring our children to be in the custody of an
4 educated for around 1,000 hours per year, as a right and
5 license to use our children for scientific, social, and
6 education study experiments. There was a time when the
7 parent had to be informed and give consent to such use of
8 their children. But we have entered the age of government,
9 not Mom knows best.

10 One parent who was unable to attend today
11 has asked me to share her concerns as a result of her
12 unique perspective as a foster parent. Tami John is the
13 mother of nine children. Three of their children were
14 adopted through the El Paso County Foster Care System. Her
15 background is that of a pediatric nurse, and is a
16 psychiatric registered nurse serving children and
17 adolescents in crisis. She writes, "I have deep concerns
18 regarding the data collected on our children within the
19 educational system under the rationale that this is to
20 improve education. Research does not require personally
21 identifiable information to obtain results.

22 Students have been used for experimental
23 research even when specific vendors have reported
24 encryptions are not fully safe. I requested the TS Gold
25 documentation collected on one of my own children. I was



1 shocked to discover the photos with interpretive comments
2 similar to the medical assessments obtained from the Child
3 Development Center. However, TS Gold collected their
4 information not under the protections of HIPAA, and not by
5 a team of professionals within the areas of specific
6 development of children as is the case in the developmental
7 center. The specific TS Gold documentation on my child was
8 completed by several different paras. The information can
9 be documented by any staff working with the child, even if
10 they have little or no background on appropriate
11 development of children. This observation then becomes
12 more of an inexperienced opinion versus a professional
13 expert.

14 Someone may view a child acting out as
15 being oppositional and aggressive, but a skilled
16 professional may document this as a cry for help or
17 appropriate for children who have experienced trauma. You
18 have a duty to protect our children from becoming trapped
19 with the identity of a traumatic past or the label based
20 off an opinion created by individuals not qualified to
21 obtain and document such diagnostic information. There are
22 those that believe the age of accountability does not incur
23 until eight years old as the child is still learning right
24 from wrong. Please keep personally identifiable



1 information out of the state psychological social data
2 collected." Thank you.

3 CHAIRMAN DURHAM: Thank you very much.
4 Okay. We'll move on. Going, going, gone, and we're now no
5 longer ahead of schedule. So right on schedule we'll
6 proceed in with item 10.01 and let's see here, all right.
7 Alright, for -- next item in the agenda is Consideration of
8 the Reading to Ensure Academic Development Act, the READ
9 Act Rules. Before we begin discussion, is there a motion
10 on the table? Dr. Schroeder, do you wish to make any
11 motions?

12 MS. SCHROEDER: Yeah, if you would want me
13 to.

14 CHAIRMAN DURHAM: Please.

15 MS. SCHROEDER: (Inaudible). Oh, start
16 over? Okay. I move to approve. Oh, I'd like to make the
17 most not-approved, the amendments to the rules, to the
18 administration of the READ Act to ensure Academic Act, with
19 the amendment that we not make a change to Section 3.04.

20 CHAIRMAN DURHAM: That's -- I don't -- I
21 don't think that's a proper motion in here because you
22 would be a no vote. It doesn't -- It's not a motion that
23 proposes a change. So would anybody else like to make a
24 different motion at this point in time, Ms. Mazanec?



1 UNIDENTIFIED VOICE: Before a motion, may I
2 just say before a motion, could we just have a little
3 discussion?

4 CHAIRMAN DURHAM: I think we got a motion on
5 the table then we'll have a discussion, and I think part of
6 it will be a clarification so that everyone's clear exactly
7 what's in front of us to be voted on. And that's what I --
8 I think your motion failed to get us to that point. Yeah,
9 Ms. Mazanec?

10 MS. MAZANEC: I'm not sure (inaudible) right
11 now.

12 CHAIRMAN DURHAM: Okay. Ms. Dorman do you -
13 - could you.

14 UNIDENTIFIED VOICE: Mr. Chair.

15 CHAIRMAN DURHAM: Yes, Ms. (inaudible)

16 UNIDENTIFIED VOICE: The first motion is --
17 the second motion is there for, if you were to change any
18 of the language for Section 3.04. So that's why it says,
19 as amended whereas the first one I think is --

20 CHAIRMAN DURHAM: So this is 3.04 as in
21 front of us.

22 UNIDENTIFIED VOICE: That's the one --

23 CHAIRMAN DURHAM: That's --

24 UNIDENTIFIED VOICE: -- we currently have.

25 It requires the -- the additional task --



1 MS. FLORES: Lead us through.

2 CHAIRMAN DURHAM: Is that -- that correct?

3 MS. FLORES: How do -- how do we get going
4 on this?

5 MS. SCHEFFEL: Thank you. Mr. Chair and
6 members of the Board, so you have before you READ Act
7 rules, that have been revised for two purposes. So the
8 first purpose was revisions directed by the Office of
9 Legislative Legal Services. All of those provisions are
10 outside of Section 3.04. You have a revision to Section
11 3.04 that was directed by the Board. We have in the draft
12 rules in front of you what you saw last month. Which was,
13 a revision to Section 3.04 that asked for English learners
14 in programs where literacy instruction is taught, in both
15 English and Spanish, that those students be also assessed
16 once annually in English.

17 And that's what you see if you're
18 referencing this particular document in your Board docs,
19 that's what exists for in actual rules. There has been
20 great conversation among the Board as well as through
21 written comment about revisions to that section. So you
22 have some potential language for your consideration. And
23 that would be only if you wish to amend, or you may amend
24 in any form that you would like here within the meeting.
25 There was some interest expressed by members to do that



1 here today. So we are willing to move forward in whatever
2 direction you ask for us to move.

3 UNIDENTIFIED VOICE: (Inaudible).

4 MS. SCHEFFEL: There are two motions.
5 Either approve the rule from last month which states for
6 English learners who received literacy instruction in both
7 English and Spanish, that the local provider may opt to
8 utilize a State Board approved of reading assessment in
9 Spanish to determine whether the student has a significant
10 reading deficiency. In these instances, students may also
11 be assessed using a State Board approved, yeah, shall also,
12 I'm sorry, I misread, shall also be assessed using a State
13 Board approved assessment in English annually. These
14 results shall inform re-planned development pursuant to
15 statute citation.

16 The second consideration for today, this
17 would be as amended, would be for students, so any student
18 who receives literacy instruction in both English and
19 Spanish, the local education provider may adopt to utilize
20 the State Board approved interim assessment in Spanish, to
21 determine whether the student has a significant reading
22 deficiency. In these instances, students shall also be
23 assessed once annually, using a state Board approved
24 interim assessment in English, for the purpose of informing
25 reading instruction and intervention services and for the



1 monitoring of student progress towards grade level reading
2 competency.

3 UNIDENTIFIED VOICE: Thank you.

4 MS. SCHEFFEL: That would be as amended.

5 CHAIRMAN DURHAM: All right Ms. Mazanec.

6 Let's get a motion then we'll -- we'll go back to
7 discussion.

8 UNIDENTIFIED VOICE: Okay.

9 MS. MAZANEC: We move to approve the
10 amendment to the rules (inaudible) as amended.

11 MS. FLORES: That was what I tried.

12 UNIDENTIFIED VOICE: Okay.

13 MS. MAZANEC: That was the one she just
14 explained, correct?

15 UNIDENTIFIED VOICE: And that is what I
16 think you were reading from. It was just out of context
17 'cause no one knew what was amended.

18 MS. FLORES: Okay. Could you please repeat,
19 when you first started speaking, there were two pieces to
20 this. One they were the rule -- amendments to the rules
21 based on?

22 UNIDENTIFIED VOICE: The Office of
23 Legislative Legal Services and the alignment to House Rule
24 1323.



1 MS. FLORES: Okay. So that was actually the
2 motion that I wanted to make. Which is that I approve the
3 amendments to the rules based on the recommendations from
4 those two agencies period. And I don't know if that's any
5 more helpful than Pam's?

6 CHAIRMAN DURHAM: Why don't we, I mean, I
7 mean let me try this to see if we can get this off dead
8 center. If I can have a motion to approve the rules at
9 submitted it with the exclusion of 3.04 and the Chair will
10 rule that it's not a separate server. If -- should this
11 motion pass, I will rule it's not a settled question that
12 3.04 can be moved for the addition, as an addition to the
13 approved to, rule if -- if the -- if the changes
14 recommended by Legislative Counsel are approved. So if I
15 could have that motion in a second, we can get everything
16 out of the way except the controversial amendment. Is
17 there such a motion?

18 MS. FLORES: Sure.

19 CHAIRMAN DURHAM: So my, Dr. Schroeder has
20 second. Okay. Ms. Rankin seconds. So we now have motion
21 in front of us that excludes 3.04 and we'll come back to
22 that presuming this motion passes.

23 MS. FLORES: Right.

24 CHAIRMAN DURHAM: Is there an -- just
25 discussion, Dr. Flores?



1 MS. FLORES: Yes, discussion.

2 CHAIRMAN DURHAM: Okay, please.

3 MS. FLORES: Okay. Here are the concerns
4 and concerns really lead to the language in which parents
5 would like their children to be educated in. And of course
6 this leads to literacy. And I think parents have the right
7 to state which language their parent -- their kids should
8 be educated in. That's -- I think that's kind of an
9 overriding question that is implicit in -- in all of this.
10 One of the things that we know is that in 1953, the United
11 Nations passed declaration stating that, indeed parents
12 have this right to have their kids educated in the language
13 that they would like their kids to be educated in. Then we
14 have Lau versus Nichols, which didn't decide which language
15 but did decide that, if, that, education had to be made
16 meaningful to kids and if there was a specific number of
17 kids within that school district, within that school, then
18 the district -- the parents had the right to decide whether
19 it was ESL, different models of -- of language instruction
20 which could be ESL, which could be bilingual, which could
21 be dual language.

22 And I think we have also been kind of
23 muddying the waters with models, different models of
24 education. But we can't forget that one of the issues is
25 the language in which parents want their kids to be



1 educated in. And I think that parents indeed do have that
2 right. If parents decide to have their children placed in
3 transitional programs, then -- and usually, I had a
4 discussion with DPS on this and usually parents want dual
5 language. But there are not enough dual language programs
6 and they are placed then in transitional programs until
7 there's a place for them in dual language. Well, if that's
8 the case, I'm not speaking for the other districts, I'm
9 speaking for DPS, then parents should have the right to
10 have their children, if they asked, to be tested in English
11 if they so desire. That is completely missing from both
12 these -- these -- these other Acts. And I think that is
13 very important.

14 Another concern that parents have, is the
15 segregation issue, of being segregated into Tenley schools.
16 Now that's -- that's just, parents don't want their kids
17 segregated with all Spanish speaking kids. They want the
18 opportunity for their kids to be among other kids who speak
19 English. And I'm not talking just about, they could be
20 Hispanic kids, they could be other kids. But they want
21 that opportunity to -- to be able to have their kids play
22 with kids that speak another language, they do not want to
23 be segregated. Finally, I -- I agree that students
24 especially ESL students, are overly tested. And I asked
25 DPS to find out how much -- what that cost would be.



1 Of course, we talk about the time for
2 teaching, the time that kids miss from learning for these
3 tests. I also had the opportunity, to look over Adell
4 which is another test that is very much like the DIBELS or
5 is the DIBELS equivalent. And I'm sorry but I -- I was not
6 impressed with -- with those tests. So I -- I think that,
7 again we -- we need to consider that it's not just
8 literacy. I mean literacy per se but it's -- we're also
9 talking about the language of instruction. And given our
10 politics and what we, what we know, and what we hear from
11 some of our people that are running for the president, I
12 now see that parents were probably on target.

13 When they would say to me some years ago
14 when I was teaching in the district with DPS, that they
15 were concerned that they might have to go back to Mexico,
16 that they saw that in the (inaudible) and that they wanted
17 their kids to be functional, to be educated in -- in -- in
18 the language of -- of the parents homeland. So for this I
19 think that we need to keep that language about the -- the
20 parents in there. The parent wishing to test their --
21 their kids to find out whether they -- they are learning
22 English but if they ask for it. I think that, that first
23 that 3.04, I think is better than these other two. I just
24 don't see the parents wishes stated in the second draft or
25 the potential revision. And I think that's very important.



1 CHAIRMAN DURHAM: Thank you.

2 MS. FLORES: So and I -- I did think and did
3 speak with lots of people about this. Thank you.

4 CHAIRMAN DURHAM: Thank you Doctor Flores.
5 Yes, Ms. Rankin.

6 MS. REGAN: Is there a motion on
7 (inaudible).

8 MS. FLORES: Yup.

9 CHAIRMAN DURHAM: There -- there is a motion
10 I think that, did I get us --

11 MS. FLORES: Yeah, you got us.

12 CHAIRMAN DURHAM: And again in a second. So
13 that motion will be just be to approve all of the revisions
14 to the rules recommended by the Legislative Legal Services
15 and that would not include 3.04 at this point. So is
16 there, Ms. Burdsall, would like to call the roll on that
17 motion please?

18 MS. BURDSALL: I'll be happy to.

19 UNIDENTIFIED VOICE: What is this all talk
20 about?

21 MS. BURDSALL: Board Member Flores?

22 MS. FLORES: No. What are you voting on?

23 UNIDENTIFIED VOICE: Why don't you restate
24 the motion?



1 CHAIRMAN DURHAM: The motion is to approve
2 all of the rules except 3.04 and then if -- if any member
3 requests and if there's a motion second, we'll consider
4 3.04 separately.

5 MS. FLORES: Right. But I'm not -- I'm not
6 a --

7 UNIDENTIFIED VOICE: This isn't in the
8 motion.

9 CHAIRMAN DURHAM: That is not in the motion
10 at the present time.

11 MS. FLORES: Okay. So wait, the motion is?

12 CHAIRMAN DURHAM: To approve all the rules
13 with the exception of 3.04.

14 UNIDENTIFIED VOICE: There is (inaudible)
15 changes from the office of the Legislative -- Legislative
16 Legal service.

17 CHAIRMAN DURHAM: Legislatively Legal
18 Services. Okay. Dr. Flores has voted no, please proceed.
19 Do you- do you wish to change your vote Dr. Flores?

20 MS. FLORES: Yes.

21 CHAIRMAN DURHAM: Do you wish to be recorded
22 as voting yes?

23 MS. FLORES: Yes.

24 CHAIRMAN DURHAM: Okay. Miss, please
25 proceed, Ms. Burdsall.



1 MS. BURDSALL: Board Member Goff?
2 MS GOFF: Yes.
3 MS. BURDSALL: Board Member Mazanec?
4 MS. MAZANEC: Yes.
5 MS. BURDSALL: Board Member Rankin?
6 MS. RANKIN: Yes.
7 MS. BURDSALL: Board Member Scheffel?
8 MS. SCHEFFEL: Yes.
9 MS. BURDSALL: Board Member Schroeder?
10 MS. SCHROEDER: Yes.
11 MS. BURDSALL: Chairman Durham?
12 CHAIRMAN DURHAM: Yes. The motion is
13 adopted by a vote of seven to nothing. We'll now -- is
14 there a motion on the table --
15 MS. FLORES: Thank you.
16 CHAIRMAN DURHAM: -- or does someone like to
17 make a motion relative to 3.04, Ms. Mazanec?
18 MS. MAZANEC: So was that motion number two
19 or number one?
20 UNIDENTIFIED VOICE: I think it would be to
21 who would decide which -- which --
22 MS. MAZANEC: Which rules language?
23 UNIDENTIFIED VOICE: Yes.
24 MS. FLORES: So we need to have that -- that
25 piece of paper that has the three different things on it.



1 MS. MAZANEC: Okay, I got it.

2 CHAIRMAN DURHAM: And, and forsake --

3 MS. FLORES: I can't see that.

4 CHAIRMAN DURHAM: -- of clarification from
5 staff, that -- that would be the language that is included
6 in this particular amended version?

7 MS. FLORES: No.

8 UNIDENTIFIED VOICE: No. That particular
9 version --

10 MS. MAZANEC: No. This just a piece.

11 MS. DORMAN: That particular version is the
12 version that you saw back in February that was based on
13 conversations with the Board --

14 CHAIRMAN DURHAM: Okay.

15 UNIDENTIFIED VOICE: -- prior to the
16 February meeting. Based on the comments in the February
17 meeting, we have offered you today some alternative
18 language. And that is what you see on the evolution of the
19 section page.

20 MS. MAZANEC: This page. Yeah.

21 MS. DORMAN: So you see what it states
22 actually in the rules now at the top.

23 MS. FLORES: Here.

24 MS. DORMAN: You see what it state in the
25 draft rules that you could adopt in the middle and you see



1 some alternative to that at the bottom for your
2 consideration. That would be the amended one.

3 MS. FLORES: So the top one is what is now?

4 MS. DORMAN: The top one is what is now.

5 MS. FLORES: The second one is what we
6 talked about in February?

7 MS. DORMAN: Correct.

8 MS. FLORES: The third one is what we could
9 change from February or from original?

10 CHAIRMAN DURHAM: Right.

11 MS. DORMAN: Correct. You can change it any
12 way you want and the February, that is another possible
13 consideration.

14 MS. FLORES: Okay.

15 MS. MAZANEC: So I would like to move to
16 approve the language of 3.04 Revision, dated 3/1/2016. For
17 students who receive literacy instruction in both English
18 and Spanish, the local education provider may opt to
19 utilize a state Board approved interim reading assessment
20 in Spanish to determine whether the student has a
21 significant reading deficiency. In these instances,
22 students shall also be assessed once annually using a State
23 Board approved interim reading assessment in English for
24 the purpose of informing reading instruction and
25 intervention services and for the monitoring of student



1 progress toward grade level reading competency. Did that
2 make it clear?

3 CHAIRMAN DURHAM: Yes I believe that yeah,
4 you --

5 MS. FLORES: It's clear but it doesn't
6 include --

7 CHAIRMAN DURHAM: -- you read the -- I mean
8 you have -- have read the actual language of the proposed
9 amendment for -- to be included as 3.04, is there a second
10 to that motion? Dr. -- Dr. Scheffel, do you wish to
11 second? Okay. All right. The discussion and the staff
12 have comments at this point or are we?

13 MS. DORMAN: We have a short presentation if
14 that's the desire for you to help understand a little bit
15 of the Section 3.4 -- 04 evolution process. If that would
16 be desired to your -- I'm prepared to address any written
17 comments and you have a response document, so --

18 CHAIRMAN DURHAM: Okay.

19 MS. DORMAN: -- I'll be happy to address
20 that. Anything?

21 CHAIRMAN DURHAM: Why don't you proceed
22 then?

23 MS. DORMAN: Okay.

24 CHAIRMAN DURHAM: Thank you.



1 MS. DORMAN: Is -- would you mind switching
2 to the presentation, please? Yes, it was in the
3 (inaudible). Thank you. While they're pulling that up,
4 I'll just start with the history piece because I think that
5 you can, the history piece is something you don't have to
6 actually see to understand. So the READ Act Rules were
7 first passed in March of 2013, this is winter after the
8 passage of the READ Act. Based on that particular
9 submission, it's stated that all students will be tested
10 English for the designation of a significant reading
11 deficiency. That's okay.

12 Anyway, and so you'll see that here on the
13 slide. What also happened after that is there were some
14 considerations spoken from the field that that might create
15 some misidentification of significant reading deficiencies
16 among English learners. And so then Commissioner Robert
17 Hammond asked the attorney general in the summer of 2014 to
18 speak formally on the assessment language that we would
19 collect for the significant reading deficiency designation.
20 And the attorney general's opinion essentially stated that
21 for students in programs for English and Spanish were the
22 languages of literacy instruction, the districts could
23 choose to identify the estimate language that they would
24 use for SRD or Significant Reading Deficiency designation.



1 And so we adopted rules last May that
2 addressed that by saying, any Board approved interim
3 assessment could be selected for that designation. Over
4 the summer, those rules were subject to a review and also
5 the passage of House Bill 1323. So we came back to you
6 this fall to really address those particular revisions
7 prompted by OLLS as well as the passage of House Bill 1323.
8 And in the December meeting, we re-note these rules at the
9 request of the Board to consider the language around 3.04.
10 So just to make sure everybody knows where we've been and
11 where we've come from.

12 The next slide that you'll see we've shared
13 with you once before, it speaks to what statute requires
14 for testing and it speaks to what your rules require for
15 testing. So students are screened at the beginning of
16 every school year for their reading risk and they are again
17 screened at the end of the year for their reading risk.
18 Those assessments are chosen locally by the district and
19 can be either in the language of English or Spanish,
20 locally decided based on the programming models. The
21 statute, as well as your rules, also say that students will
22 be monitored for their progress through out the school
23 years. That's anywhere from the fall to the spring, and it
24 does not designate frequency and it does not speak to
25 language because progress monitoring is not for the



1 designation of a significant reading deficiency to inform
2 instruction. The next slide based on your last meeting,
3 you had some questions about what statute said about what
4 we were testing with READ Act assessments, and you had
5 questions around what the Access assessment actually
6 assessed. So we just wanted to encapsulate that here for
7 you to speak specifically that the READ Act is called to
8 identify risk in reading and it's called to measure five
9 specific components of reading identified here, phonemic
10 awareness, phonics fluency, comprehension, and vocabulary,
11 as well as (inaudible) language skills.

12 You'll see in the Access assessment, this is
13 the description just straight off of their web page. It
14 measures English language proficiency in students who've
15 been identified as English learners to monitor their
16 student's progress in acquiring academic English. If you
17 have other questions about those particular assessments,
18 I'll be glad to address any of them on the interim
19 assessments and we have Joy Sokolowski here from assessment
20 to answer any questions that you would have on Access.

21 The last slide that you see based on
22 questions prompted by the Board is we wanted to describe to
23 you two program models for instruction, literacy
24 instruction that have been a part of this discussion. I
25 should say there are other probably methods of instructing.



1 These are the two that are in this conversation today. So
2 literacy instruction in English or literacy instruction in
3 both English and Spanish. And then you'll see the
4 demographic groups represented in those models, so you have
5 non-English learners as well as English learners in both
6 types of programming. You'll see the type of assessment
7 that your rules require the language in which the
8 assessment would be given.

9 The next line, you'll see the timeline
10 consistent with what you've seen before. There are only
11 two requirements in your rules or in statute for testing
12 beginning of year and end of year, the rest is up to
13 district to determine, and then you'll see the designation
14 of significant reading deficiency. There was a reference
15 to this slide I think in public comment earlier about the
16 asterisk. To be clear, the asterisk is there because in
17 our guidance document, we have made provisions always that
18 English learners in programming, where they have been
19 selected to be tested in English and where English language
20 proficiency could have been a barrier, that other pieces of
21 evidence can refute that score.

22 So that has been our guidance to the field
23 of that and English learner in any program model tested in
24 English can have that score refuted if they felt the body
25 of evidence suggested it was language acquisition that



1 might have interfered with the performance of students on
2 that reading score. So they may refute that score. Again,
3 you'll see above, they can choose the language in which
4 they assess in these program models, we don't dictate that
5 for significant reading deficiencies. So that's our brief
6 presentation to just let you know based on the questions
7 that you have prompted at the meeting. If you have
8 questions about this or anything else, we'd be happy to
9 answer.

10 CHAIRMAN DURHAM: Questions for Ms. Dorman.
11 Yes, Ms. Mazanec.

12 MS. MAZANEC: I just have -- I have one
13 quick question. For students in grades K through 3, what
14 would an English- how much time does an English reading
15 proficiency test take?

16 MS. DORMAN: Thank you for the question. We
17 have seven Board approved interim assessments that are on
18 our list, so you adopted seven. Some are individually
19 administered, most are computer adaptive or administered
20 in, in settings of whole class. So if you're administering
21 one of the one-on-one individual assessments, the
22 assessment time is usually not longer than 10 minutes per
23 student, you would compound that by the number of students.
24 If you're using one of the other five adaptive assessments,
25 what we're hearing both from practitioners in the field as



1 well as from the publishers, is those have a ceiling and a-
2 a ceiling and a floor, if you will.

3 So students will come into that, take a set
4 of items, they'll either hit the floor and stop testing, or
5 they'll keep going until they hit the ceiling. That's the
6 way I would describe it. So it varies, some students maybe
7 on it as few as 15 minutes, others could go up to as long
8 as 45 minutes. Again, based on grade and based on the
9 amount of items they're getting correct and the number of
10 times it keeps going. So those that take longer, like up
11 to 45 minutes, are usually taking an entire class in one
12 setting for that hour and giving everybody the assessment
13 at the same time, those are doing individually or doing
14 that throughout the school day usually for increments of
15 time shortening. That amount of time.

16 MS. FLORES: And --

17 CHAIRMAN DURHAM: Dr. Flores.

18 MS. FLORES: Do students in kindergarten, do
19 they do this test that would rely -- is it reliable? I
20 mean, if you do it on the computer, the computer tests, and
21 not the one on one?

22 MS. DORMAN: I'm going to just -- the way I
23 would answer that question for you is every one of the
24 assessments that were approved by this Board were subject
25 to reliability and validity reviews for technical adequacy.



1 So if they are administered on a computer, that
2 consideration was given as part of their data, not our
3 data, but the data submitted by the researchers within that
4 assessment and were found to meet the coefficients for
5 reliability and validity for all grades across K through 3.

6 CHAIRMAN DURHAM: Okay. Yes, Dr. Schroeder?

7 MS. SCHROEDER: I thought the revisions to
8 the testing law last year changed the Kindergarten READ Act
9 requirement so that --

10 MS. DORMAN: You just voted that.

11 MS. SCHROEDER: Pardon me?

12 MS. DORMAN: Yes, you did.

13 MS. SCHROEDER: So we don't have -- they
14 don't do the READ Act in kindergarten?

15 MS. DORMAN: They do the READ Act assessment
16 in kindergarten in the first 90 days, calendar days of the
17 year. If they do it in the first 60 days of the calendar
18 year, they may also use that just to be a --

19 MS. SCHROEDER: A part of the readiness?

20 MS. DORMAN: -- a part of the readiness
21 assessment.

22 MS. SCHROEDER: Okay. So I got that
23 backwards. I thought the readiness took care of them.

24 MS. DORMAN: No.

25 MS. SCHROEDER: Okay.



1 MS. DORMAN: So you still have to give the
2 READ Act, the timeline was extended for kindergarten a
3 little bit from what your previous rules had included,
4 which was six years.

5 MS. SCHROEDER: So I actually don't see much
6 of a difference between the second item and the motion
7 that's on the floor other than to maybe, maybe prevent a
8 lawsuit. So this is about testing second language learners
9 to the lawsuit. In second one it's English language
10 learners and the second one it says students. And that's
11 really all because it's still the same students that we're
12 testing yet again in English, and we have had a tremendous
13 amount of feedback against this. What folks have said is
14 stick with what we did initially in the Read Act. I
15 haven't heard any, I haven't heard any support for this. I
16 do appreciate though what I believe was your proposal
17 initially when we passed these in the spring that said that
18 parents who have concerns, parents of second language
19 learners who have concerns whether their kids can read in
20 English may ask for, their students to be tested for
21 reading in English as well. But to mandate it, which is
22 what we're doing in either the second one or this third one
23 that's now been proposed-

24 UNIDENTIFIED VOICE: That's right.



1 MS. SCHROEDER: -- is double testing. It's
2 over testing the kids, and I, I'm not gonna vote for this
3 3.04 as it's presented for that reason. Nothing -- nothing
4 has convinced me, but I also wanna say that I appreciate
5 the input from folks and I appreciate the time you guys
6 have spent with us to try to explain this to me.

7 CHAIRMAN DURHAM: Dr. Scheffel.

8 MS. SCHEFFEL: Thanks for the -- the summary
9 here. Can you go back to the slide that talks about the
10 assessment? Right there. No, the next one. Yes.

11 MS. DORMAN: I'm sorry. I'm getting too
12 fast.

13 MS. SCHEFFEL: Right there.

14 MS. DORMAN: There you go.

15 MS. SCHEFFEL: Okay. So the READ Act
16 interim assessments, where does that language come from
17 under that heading? Measure students reading skills and
18 phonemic awareness and so forth.

19 MS. DORMAN: Statute and rules.

20 MS. SCHEFFEL: Yes. So it says that the
21 students are tested in these areas in the area of reading,
22 right?

23 MS. DORMAN: Yes.

24 MS. SCHEFFEL: Those that would say the
25 students are being double tested, the Access test and the



1 language is below, does not test the language under the
2 first heading, and I've looked at the items I could find on
3 the Access, but more principally, I've looked at the WIDA
4 standards that drive those items, and they are not testing
5 those skills. I mean, may I read from the descriptors for
6 grade levels one and two, "Begin using features of
7 nonfiction text to aid comprehension." There's no
8 specificity with that benchmark, it has nothing to do with
9 the language under the interim assessments. "Use learning
10 strategies like context clues." That has nothing to do
11 with the language under that first setting. "Identify main
12 ideas." There is no specificity that it would suggest to
13 students developing skills in phonics or vocabulary or
14 fluency or reading comprehension that would allow us to
15 find out whether the student reads.

16 And so I, I vigorously object to the concept
17 that it's double testing, it is not double testing. The
18 Access does not test that language and that's in statute,
19 and that's why I support option three, because it asks us
20 to do what the statute requires us to do. But for the
21 reasons of research, the limited English proficiency
22 dropout rates in high school, 42 percent of kids drop out
23 of high school largely correlated to reading. They can't
24 read well enough to get through high school because the
25 Access test does not test the language in the statute and



1 because of parents, and I have heard a lot of feedback on
2 this from people that want to know if students can read in
3 English and also in Spanish. And that's why they're
4 requested to be, they're required to be tested both. It's
5 not double testing, it's a very different test. And so
6 that's the reason I think that this language in the third
7 iteration of the adjustments to section 3.04 stuck me as
8 addressing clearly the intent of the statute.

9 CHAIRMAN DURHAM: Further discussion, Ms.
10 Mazanec then Dr. Schroeder.

11 MS. MAZANEC: Dr. Schroeder mentioned that
12 we've heard from a lot of people. We have heard from a lot
13 of people, I do think that staff have done also a very good
14 job of answering all of the concerns that were brought
15 across. And I am not persuaded that one 10-minute test,
16 maybe a little more, annually grades K through 3 is
17 burdensome. I think it's informative. I think parents and
18 taxpayers want to know whether the READ Act interventions
19 are working, and that includes their proficiency in English
20 language. It doesn't mean that they have to be proficient,
21 it just means that we have to see whether they're
22 progressing.

23 CHAIRMAN DURHAM: Yes, Dr. Schroeder.

24 MS. SCHROEDER: Well, you know, I don't
25 think I disagree with the, or let's put it this way, I



1 can't disagree with the specifics about leading acquisition
2 in interim assessments, but what you've failed to say is
3 that they must be in English.

4 MS. SCHEFFEL: May I read from the research?

5 CHAIRMAN DURHAM: Are you --

6 MS. SCHROEDER: I mean, this doesn't make
7 sense. If a kid doesn't speak English, if a kid can't read
8 English, a kid can't read English.

9 MS. SCHEFFEL: So may I read from the IES
10 report, Institute for Education Sciences, what was the
11 clearing house released by the Feds, titled Effective
12 Literacy in English Language Instruction for English
13 Learners in the Elementary Grades. "Research shows that
14 early reading measures administered in English can be used
15 to screen English learners for reading problems. This
16 finding is important because until recently, it was widely
17 believed that the absence of oral proficiency in English
18 prevented English learners from learning to read in
19 English, thus limiting the utility of early screening
20 measures.

21 The common practice was to wait until
22 English learners reached a reasonable level of oral
23 efficiency before assessing them on measures of beginning
24 reading. In fact, oral language measures of syntax,
25 listening comprehension, and oral vocabulary do not predict



1 who is likely to struggle with learning to read. Yet,
2 research has consistently found that early reading measures
3 administered in English are an excellent means for
4 screening English learners, even those who know little
5 English." We're trying to help kids to be successful in
6 learning to read in English and Spanish. And if we don't
7 ever test them in English, we have no idea if this money
8 works. It's our only state literacy initiative. How many
9 million dollars is it?

10 MS. DORMAN: Collectively with every program
11 aspect, it's about \$40 million.

12 MS. SCHEFFEL: That is a lot of money that
13 the public wants a return on investment for and the money
14 is linked to the students thankfully to do what's necessary
15 to help them be successful. Parents want their kids to be
16 able to compete in the society, and 42 percent of LEP kids,
17 Limited English Proficiency kids, are dropping out of high
18 school largely because they can't read.

19 CHAIRMAN DURHAM: Further discussion?

20 MS. SCHROEDER: I'm just kind of wondering
21 why we have all these staff people coming forward and
22 saying contrary to that, that learning-

23 MS. SCHEFFEL: I don't know what staff or
24 people are coming forward.



1 MS. SCHROEDER: -district staff people
2 saying that learning and, and their organizations that
3 learning in Spanish first is more successful, learning to
4 read in Spanish is more successful than the bilingual et
5 cetera.

6 MS. SCHEFFEL: That's a deep discussion
7 we've had.

8 MS. SCHROEDER: Well, that's --

9 MS. SCHEFFEL: But- but- I -- I'm just
10 saying that -- that the research is very robust in this
11 area.

12 MS. SCHROEDER: And it depends on the kind
13 of model that kids --

14 UNIDENTIFIED VOICE: It depends on the
15 quality. Right.

16 MS. SCHROEDER: -- the quality --

17 UNIDENTIFIED VOICE: Yeah.

18 MS. SCHROEDER: - and the models that the
19 district is using.

20 UNIDENTIFIED VOICE: That are mandating, it
21 is not helpful.

22 CHAIRMAN DURHAM: Further discussion? I --
23 I would quickly observe that I've had the opportunity
24 during this discussion to speak to a number of groups, and
25 individuals, who were involved in the original passage of



1 the READ Act, which was, I- I think a very hard
2 (inaudible), and very controversial piece of legislation,
3 into legislature. And I think without exception, those
4 groups, including business groups, and educational reform
5 groups, have almost been so blunt as to say, that if you
6 cannot, and don't test in English, why bother? Because the
7 whole purpose of the READ Act was to try and move children
8 toward success, in the economic marketplace. And the
9 economic language is English. And if you can't perform in
10 -- in English, then your chances of dropping out are
11 dramatically increased, and your chances of -- of being
12 economically successful down the road, are diminished. And
13 -- and I don't think there's the -- that evidence is I -- I
14 think almost incontrovertible.

15 And so, if you don't know, and if you're not
16 bothering to determine whether you're making any progress
17 in the acquisition of the English language, then I think
18 you're doing these children a disservice. A terrible
19 disservice, because the chance of them dropping out
20 increases exponentially, with their inability to -- to read
21 and write English. So I think this is -- I view this as a
22 commonsense issue, I -- it -- I -- it's hard to
23 characterize it as a significant burden on -- on districts
24 and our children, and -- and I intend to vote yes. So



1 absent further discussion? Ms. Pearson, would you call or
2 do you wanna comment Dr. Flores?

3 MS. FLORES: I can see, if in our
4 transitional program where kids, and I'm speaking now about
5 the Denver program. Where kids are -- where the model
6 dictates that kids learn 10 percent in English in
7 kindergarten, and 90 percent in Spanish, that -- that would
8 be futile. In second grade, where it's 20 percent in
9 Spanish, and 80 percent in English, then that would be, you
10 know, again, futile. In third grade, where it's 30 percent
11 in English, and 70 percent in Spanish, that you might be
12 able to get something there, that's meaningful. And again,
13 it's meaning. That -- that really is important. I mean,
14 are we going to waste money in kindergarten, and first
15 grade? And I'm just thinking here of a compromise. Where
16 we could -- we could compromise, and say, "Let's do this in
17 third grade, and let's do this beyond third grade, but not
18 in second grade, first grade."

19 MS. PEARSON: Debra has a question.

20 MS. FLORES: And I would even give same --
21 possibly some in -- in second grade. About the futility of
22 it in those early grades, is basically waste of time, and
23 waste of money.

24 CHAIRMAN DURHAM: Dr. Scheffel?

25 MS. SCHEFFEL: So may I ask member Flores.



1 MS. FLORES: Yes.

2 MS. SCHEFFEL: How would you think about
3 other language learners, because Spanish isn't the only
4 language?

5 MS. FLORES: Well, you also have a large
6 number. I mean, Spanish is a language that was spoken here
7 many years ago. And we know. I mean, I've spoken to lots
8 of adults, who have never learned Spanish. And why did --
9 haven't they learned Spanish? Because the state was so
10 mean. I mean, literally physically, hitting children for -
11 - for speaking the language. And consequently, the
12 language for many Hispanic speakers in this state, is like
13 no. They don't speak it. But now we have a large group, a
14 large population, that is really needed in this state.
15 That has build Denver. Literally built Denver. And we
16 have the politics of our country are such that we don't
17 know. And parents don't know whether those kids are going
18 to be returning to their native countries. And they want
19 assurances that kids will be able to speak English. Of
20 course, they wanna learn English, and also Spanish, if
21 indeed, they must return to their native country.

22 So I think it -- it's not -- it's not very
23 simple. It's not a very simple thing given the realities
24 that we're having to face presently. And I think
25 initially, I -- I read often, and said that in 1953, the



1 United Nations did ask, did suggest that parents have the
2 right to have their children taught in the language that
3 they wish to. And of course, Spanish is such a dominant
4 language in this state. I mean, it is dominant. It is
5 also, and has been, a -- a language of commerce. I know
6 where I'm from, you cannot deny that it's not a language of
7 commerce. And here, I think it's becoming so. And that's
8 why we have a lot of people -- business people that have
9 immigrated here, and we know that there are a lot large
10 number of businesses that have been started, and operate.
11 And that Spanish is necessary. So we -- we look at the
12 history, and we need to -- we need to think that it's --
13 that there is now an awakening of a population, that says,
14 Spanish is important. Spanish is part of culture. And it
15 is important to -- to keep that. Language keeps culture
16 going. So it -- it's critical in keeping a culture going.

17 CHAIRMAN DURHAM: Dr. Schroeder?

18 MS. SCHROEDER: So I have been pondering an
19 amendment, and thank you Dr. Flores for suggesting there
20 might be a compromise. Which might be that, since we are
21 testing these youngsters for their English acquisition on
22 the Access test, that we think about having an alternative
23 -- that we have a measure of English acquisition. At which
24 point, it is appropriate to teach -- to test them -- test
25 their reading in English. And that prior to that, it's not



1 of a -- as you said, not of enough value, not at a high
2 cost. In other words, is there some reasonable level of
3 English acquisition, when it is appropriate to ask them to
4 also be tested in reading in English?

5 MS. LISA: May I ask a clarifying question
6 as we think about that?

7 UNIDENTIFIED VOICE: Yes.

8 MS. LISA: I just want everyone -- as -- as
9 we get narrowly focused in one program model, I would like
10 -- because your role will affect all program models. So as
11 we step back out just a moment, are you asking for that
12 application to be to every English learner regardless of
13 program model, or are you asking for that application to be
14 specifically in the program model in 3.04? Because 3.04 is
15 specific to a particular program model for instruction, we
16 have many students who are English learners. In fact, more
17 English learners are being taught in non-dual, or bilingual
18 programming, than are -- and so, I'm trying to make sure
19 that you --

20 MS. FLORES: We're asking for transitional.

21 MS. LISA: Okay. And I just wanted to know
22 as you've asked for that, and we start to make edits, will
23 you clarify what you're asking for please?



1 MS. FLORES: Why don't you help me out a
2 little bit, and tell me what I ought to be asking for?
3 Because --

4 UNIDENTIFIED VOICE: Are we doing this now,
5 or do we vote on what's already been moved and second?

6 MS. FLORES: No. Because we've -- we've --
7 if we vote on this the way it is the opportunity for our
8 alternate -- for an alternative, I think is diminished.

9 UNIDENTIFIED VOICE: That's right.

10 MS. FLORES: What I think some of us are
11 objecting to, is not the fact that we want kids to be able
12 to read in English. Of course we do. We don't want kids
13 to be assessed for reading proficiency, in a language they
14 don't know. That's where the push back is. And that
15 doesn't make sense then, to identify a level at which kids
16 up -- are appropriately tested in English, because their
17 English acquisition is adequate. As opposed to
18 (inaudible).

19 MS. RANKIN: Right.

20 MS. FLORES: I don't have any idea what this
21 word means.

22 MS. SCHROEDER: You may even be doing some
23 harm.

24 MS. RANKIN: Forty million dollars of
25 taxpayer dollars to improve proficiency --



1 MS. LISA: Well.

2 MS. RANKIN: -to pre -- to create bilateral
3 students, and a 10 minute, to one hour test once a year.
4 That means these children, four times in their lifetime,
5 under this -- this rule, will be tested. I fail to see why
6 that is a bridge too far. Why is that too much to ask?

7 MS. FLORES: Well, because 10 minutes per
8 kid, so you got a teacher, you have a teacher who is
9 assessing 25 students, 10 minutes each, you are taking --

10 MS. RANKIN: Once --

11 MS. FLORES: -- away from teaching.

12 MS. RANKIN: -- per year. Once per year.

13 MS. FLORES: I know. But you are taking a
14 large amount of time.

15 MS. RANKIN: It's not hours, and hours, and
16 hours of testing.

17 CHAIRMAN DURHAM: Let's -- let's -- one at a
18 time please.

19 MS. FLORES: Thirty minutes time. Not 10
20 minutes, but 30 minutes.

21 CHAIRMAN DURHAM: Okay. We're --

22 MS. FLORES: Oh, Lisa, help me out.

23 CHAIRMAN DURHAM: Who's turn was it?

24 MS. FLORES: Am I off the radar in -- in --
25 I mean, I was looking just at 3.04.



1 MS. LISA: Okay, that's what I wanted to
2 clarify.

3 MS. FLORES: But if I'm messing up something
4 else.

5 MS. LISA: I wanted to just clarify, because
6 that how -- where we would help with a response to your
7 questions.

8 MS. FLORES: Okay. Thank you.

9 MS. LISA: So the other one is clarified. I
10 think that you -- you certainly could make that amendment.
11 And what I would tell you is I don't think that we can be
12 definitive on what that proficiency level at -- is we would
13 need to work for a little bit to determine what that
14 proficiency level is across the range of Access level
15 scores, and the designation for a non-English proficient.

16 MS. FLORES: Limited?

17 MS. LISA: Limited English proficient for
18 example. And I don't know that -- that we as staff, have
19 discussed that, and or with our colleagues, to be able to
20 bring back to you a definitive cut score today, that we
21 would say it is this level, or it is this designation, and
22 we would need more time to do that. Honest -- that --
23 that's honestly. If you want it right, we will need more
24 time.



1 MS. FLORES: And then does it seem like a
2 reasonable compromise to the concerns that we have about
3 the time? It's at time, money, et cetera. For testing
4 kids, where it doesn't give information, and where it does
5 provide information. I mean, what we're trying to do, is
6 help kids. And get feedback.

7 CHAIRMAN DURHAM: Dr. Scheffel?

8 MS. SCHEFFEL: Can you clarify that, how
9 many students would be affected at least currently, by this
10 rule change. Because as you point out, it does not affect
11 all ELL students in Colorado.

12 MR. DILL: Sixty-five hundred.

13 MS. SCHEFFEL: It's for a subgroup of
14 students, and what do you already do, to ensure that you're
15 not testing students when they first come here? I mean,
16 talk about the one year --

17 MS. LISA: Right.

18 MS. SCHEFFEL: -- wait, and all of that.
19 Cause I think what you're asking for is already in the
20 system, but I'd like clarity on that.

21 MS. LISA: Okay. So I'm gonna do the best I
22 can to answer your question. There are approximately
23 51,000 English learners presently reported in our
24 collection. So every year, out of 270,000, there is about
25 51,000 that are English learners. Because we only know of



1 a few districts that have that particular program model
2 that they report to the state, that number is much less.
3 According to those that report they have this program
4 model, it's about 6,500 kids, according to the data most
5 recently pulled in the October count, that data is subject
6 to some vulnerability, mostly because it's self reported.
7 So I want to just clarify that. To answer your question,
8 it -- is -- as 3.04 is designated now, we think it's about
9 6,500 kids who fit in that program model.

10 MS. SCHEFFEL: Thank you. And speak to the
11 -- the one year wait period.

12 MS. LISA: Are you talking about through our
13 guidance document?

14 MS. SCHEFFEL: Yes.

15 MS. LISA: Okay. So we have a guidance
16 document, for READ Act implementation with English
17 learners, and that is not provided to you today. So I
18 apologize, and it is on our website. Again, that
19 particular document, it states that English learners who
20 are non-English proficient, are not tested in their first
21 year in the United States. So they're already eliminated.

22 MS. FLORES: In any language?

23 MS. LISA: In any language. If they are
24 designated English learner, and they're designated non-



1 English proficient, they are way from consideration that
2 can be exempted from testing.

3 MS. FLORES: So we're talking about
4 kindergarten? Or we're talking about --

5 MS. LISA: Any grade.

6 DR. FLORES: -- ECE?

7 MS. LISA: In any grade.

8 CHAIRMAN DURHAM: In any grade.

9 MS. LISA: Kindergarten, through third
10 grade, Dr. Flores, is the READ Act. So wouldn't be ECE.

11 MS. SCHEFFEL: Okay.

12 MS. LISA: It's only kindergarten to third
13 grade for the READ Act.

14 MS. SCHEFFEL: Okay.

15 CHAIRMAN DURHAM: Further discussions? Yes?
16 Ms. Rankin?

17 MS. RANKIN: I have a question. In 2013,
18 the original Bill, was it written for all English language
19 learners, or as we have in the first 3.04, that's the
20 Spanish? We're only addressing Spanish here, is that
21 correct Mr. Dill? In that 23-13 I guess? Or 13-23 last
22 year? Have we always been just addressing Spanish
23 learners?

24 MS. LISA: Not in the READ Act.



1 MR. DILL: And -- one -- one thing to
2 understand about -- about the READ Act, is that it actually
3 went to great pains to be silent, regarding the language --
4 the language of reading acquisition. These (inaudible)
5 will give you an open for -- for multiple models. I
6 believe that when the rules were originally passed, the
7 assumption of -- was that, it would be for English. And it
8 was after that, that -- that you know, we got feedback from
9 the field dedicating that -- that really did not work at
10 all for bilingual in the language programs. So that's when
11 we started looking at amending the -- the rules, to take
12 that into account. Does that answer your question?

13 MS. RANKIN: Well, I -- I just -- are -- on
14 -- on all of our 3.04s on this page, it doesn't say any
15 other languages, except Spanish there. So this does only
16 apply?

17 MR. DILL: Yes. And the reason for that, is
18 that the -- the -- the READ Act, although it's silent on
19 the language that students will be assessed in, it only
20 provides for two languages for the assessments. It -- it
21 provides that there must be an English language assessment,
22 and a comparable Spanish language.

23 MS. RANKIN: Thank you. You answered my
24 question.



1 CHAIRMAN DURHAM: Further discussion? All
2 right. Seeing none, Ms. Burdsall, would you call the role
3 on the amendment.

4 MS. BURDSALL: Board Member Flores?

5 MS. FLORES: No.

6 MS. BURDSALL: Board Member Goff?

7 MS. GOFF: No.

8 MS. BURDSALL: Board Member Mazanec?

9 MS. MAZANEC: Yes.

10 MS. BURDSALL: Board Member Rankin?

11 MS. RANKIN: Yes.

12 MS. BURDSALL: Board Member Scheffel?

13 MS. SCHEFFEL: Yes.

14 MS. BURDSALL: Board Member Schroeder?

15 MS. SCHROEDER: No.

16 MS. BURDSALL: Chairman Durham?

17 CHAIRMAN DURHAM: Yes. That motion is
18 adopted by a vote of 4 to 3. Thank you. Okay. We are now
19 for the executive session. Let's see, do we have somebody
20 who would like to read something? This point in time Ms.
21 Burdsall?

22 MS. BURDSALL: Yeah. (Inaudible).

23 CHAIRMAN DURHAM: Please.

24 MS. BURDSALL: An executive session has been
25 noticed for today's state Board meeting in conformance with



1 24-6-402(3) to receive -- CRS to receive legal advice on
2 specific legal questions pursuant to 24-6-402(3)(a)(III)
3 CRS in matters required to be kept confidential by Federal
4 Law or rules or State statutes pursuant to 24-6-
5 402(3)(a)(III) CRS.

6 CHAIRMAN DURHAM: Okay. You've all heard
7 the notice. Is there an objection to convening of an
8 executive session?

9 MS. SCHROEDER: No.

10 CHAIRMAN DURHAM: Seeing none, that motion
11 is adopted, and we'll convene an executive session, and we
12 will reemerge at approximately 1:00 PM. All right. Thank
13 you.

14 (Meeting adjourned)



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C E R T I F I C A T E

I, Kimberly C. McCright, Certified Vendor and Notary, do hereby certify that the above-mentioned matter occurred as hereinbefore set out.

I FURTHER CERTIFY THAT the proceedings of such were reported by me or under my supervision, later reduced to typewritten form under my supervision and control and that the foregoing pages are a full, true and correct transcription of the original notes.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 25th day of October, 2018.

/s/ Kimberly C. McCright
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Certified Vendor and Notary Public

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