



Colorado State Board of Education

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TRANSCRIPT OF PROCEEDINGS  
BEFORE THE  
COLORADO DEPARTMENT OF EDUCATION COMMISSION  
DENVER, COLORADO  
May 13, 2015, Part 2

BE IT REMEMBERED THAT on May 13, 2015, the  
above-entitled meeting was conducted at the Colorado  
Department of Education, before the following Board  
Members:

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



1 UNIDENTIFIED VOICE: -- be enforced. I also  
2 ask that there'd be no student retaliation for the parents  
3 who refuse the test on behalf of their children to protect  
4 them. Unfortunately, I have a recent story to tell you,  
5 and I plead for your help.

6 So my daughter is Sarah is a freshman at  
7 Eagle Ridge Academy Charter School in Brighton S SD 27J.  
8 She was assigned in a college level speech class a  
9 persuasive speech, which was to include something other  
10 than the speech itself, against my advice, but remember she  
11 is only 14.

12 She chose refusing Common Core testing, and  
13 delivered it last Monday, the 11th. She concluded her  
14 speech by handing out refusal forms. Well, her speech  
15 certainly was persuasive. She received an A minus, and by  
16 Thursday afternoon I received an emotional, and irate call  
17 from the dean of students. She just kept demanding, this  
18 has to stop. I couldn't ask any questions. I couldn't ask  
19 that if she knew under what circumstances Sarah had  
20 distributed the handouts.

21 I finally bid her good afternoon, and went  
22 to pick up my other three younger daughters at a different  
23 charter school. Then by -- then the administration locked  
24 Sarah out of all school emails, and her Internet. They  
25 viewed, and printed out several days worth -- worth of



1 correspondent she had with her classmates. This was the  
2 damaging evidence they found.

3 "Hello. It is Sarah Nicholi (ph) from  
4 public speaking. I just wanted to apologize to all of you  
5 who tried to turn in the handouts I gave you to refuse part  
6 during my persuasive speech. I just got a call from the  
7 dean, and they are angry that I handed it out in the first  
8 place. You legally can refuse, and you just have to stand  
9 your ground. However, I apologize if I put you in an  
10 uncomfortable situation."

11 MADAM CHAIR: Thank you.

12 UNIDENTIFIED VOICE: Could -- could you  
13 please call those school districts, because they have  
14 threatened law enforcement at my front door? So if that's  
15 the case on my way home I will stop by, and go to the  
16 Brighten Police Department.

17 MADAM CHAIR: And I suggest that you do  
18 speak to somebody at --

19 UNIDENTIFIED VOICE: I need your help. They  
20 are lying --

21 MADAM CHAIR: Okay. Thank you.

22 UNIDENTIFIED VOICE: -- and they're not  
23 listening.

24 MADAM CHAIR: Appreciate you. I appreciate  
25 it very much. And Dan Shaller (ph) will be after Joan.



1 MS. SHUNK: Hi. Good morning. My name is  
2 Joan Shunk (ph), and I'm here. I'm a parent of three  
3 children, and also someone who's had the good fortune of  
4 working with CDE over the past number of years, and then  
5 just here this morning on the occasion of his announcement  
6 of his retirement to express my sincere gratitude, and  
7 appreciation for Commissioner Robert Hammond, and all of  
8 the great work he has done for parents, families,  
9 educators, and students in the state.

10 Working with the department and as a parent,  
11 seeing those -- that good work come home to our schools.  
12 What my daughter sees, and hears everyday in school, so  
13 much of it has your fingerprints on it, and I'm so deeply  
14 grateful.

15 So congratulations on such a great run, and  
16 we'll all miss you a bunch, Robert. That's all.

17 MADAM CHAIR: Thank you, Joan. We  
18 appreciate it.

19 (Applause)

20 Dan.

21 MR. SHALLER: I'm not done yet.

22 MADAM CHAIR: Yes. And Paula Noonan will be  
23 after Dan.

24 MR. SHALLER: Good morning. My name is Dan  
25 Shaller. I'm director of advocacy with the Colorado League



1 of Charter Schools. The League is a nonprofit membership  
2 organization that represents the 214 charter schools in  
3 Colorado.

4 I'm here today because later today you will  
5 be asked to consider a motion that would dismiss before it  
6 has even had a chance for a -- a fair hearing, a challenge  
7 that has been brought against Adams 50 school districts  
8 exclusive chartering authority.

9 This challenge has been brought by one of  
10 the charter schools of that district. The only district  
11 authorized charter school of that district, as a matter of  
12 fact. Crown Pointe Academy is a well respected high  
13 performing charter school that has been opened for 17 years  
14 now. The challenge they're bringing has ample merits with  
15 strong evidence to support it. And so I ask you to please  
16 give it the fair hearing it deserves by not allowing it to  
17 be dismissed today before that hearing has even had a  
18 chance to occur in June.

19 And then when the hearing does occur, I hope  
20 you will refer to the charter authorizing standards that  
21 this Board adopted into rule in 2012 to inform its  
22 decisions when making determinations about exclusive  
23 chartering authority.

24 These standards which are laid out in CCR  
25 30188 represent best practice in the field of charter



1 authorizing. And so I encourage you to consult them  
2 closely when weighing the merits of the case being brought  
3 against Adams 50's exclusive chartering authority. So  
4 thank you very much.

5 MADAM CHAIR: Thank you, Dan. Uh, Paula,  
6 and then Rosezinnia, Kovak? (ph).

7 UNIDENTIFIED VOICE: That's (inaudible.

8 MADAM CHAIR: I can't read it real well. Go  
9 ahead, Paula.

10 MS. NOONAN: Thank you. Thank you. And I  
11 want to thank the commissioner also, and Carrie for your  
12 great service, especially on the privacy issues. We really  
13 appreciate it.

14 And I am here actually to talk about a  
15 search for a commissioner, not to dig the hole too soon.  
16 I'm sorry. It is something that we do --

17 UNIDENTIFIED VOICE: (Inaudible).

18 MS. NOONAN: -- need to think about.

19 UNIDENTIFIED VOICE: I'm getting used to it.

20 Man MS. NOONAN: Yeah, right. Sure. I want  
21 to encourage the Board to do a thorough search,  
22 comprehensive, maybe national search for a new  
23 commissioner. And as you think about this, I hope you'll  
24 consider these points.

25 I worry that Colorado has delegated



1 education policy to foundations, and other entities, in  
2 large part because of the deep education funding deficits  
3 that make the state vulnerable to entities that have money.

4 I think we need a commissioner who can do  
5 two things, and I'm at 50,000 feet. We need a commissioner  
6 who can structure, help us structure as a state in  
7 education funding initiative that will provide resources to  
8 schools that will make a dent in supporting all kids,  
9 especially the children who face such daunting odds in  
10 developing necessary skills for a good life. So that  
11 financial piece, that school funding piece, we need  
12 somebody who can really think that through.

13 And second, I think we need a person who can  
14 put a fresh eye on our education policies, especially as  
15 they relate to accountability assessment, educator,  
16 performance evaluation, student data privacy, and  
17 compensation.

18 Clearly people in the state have very  
19 differing views on all of these elements, and I think we  
20 need someone who can take all of that perspective, and try  
21 to make sense out of it, and try to come up with a program  
22 that will meet the state's needs, but also the needs of our  
23 children, and our parents. Thank you.

24 MADAM CHAIR: Thank you. Appreciate it.

25 Rosezinnia, did I get that right? I must be way off, but



1 that's what it looks like. Kovar? Nope. She gave up.  
2 Sarah Sampio (ph) is the last name. I can't read the first  
3 one. Is that okay?

4 UNIDENTIFIED VOICE: Sarah.

5 UNIDENTIFIED VOICE: (Inaudible), I  
6 apologize.

7 MADAM CHAIR: Thank you. Go ahead.

8 MS. SAMPIO: Thank you. Thank you. My name  
9 is Sarah Sampio.

10 MADAM CHAIR: Sarah.

11 MS. SAMPIO: So I'm here to talk about the  
12 Healthy Kids Colorado Survey once again. The attorney  
13 general's opinion cited two reasons that parents did not  
14 need to be notified, and let me clarify the issue is not  
15 whether or not the survey should be given at all, which is  
16 what a lot of parents are trying to argue. It's simply  
17 whether parents should have noticed. That's all.

18 She says federal law doesn't apply, because  
19 it's not an applicable program. Okay. She found a  
20 technicality, and she's claiming that the state public  
21 schools are run by the states, and are not applicable  
22 programs, and therefore federal law does not apply to them  
23 here. I find this odd, because the average administrator  
24 will tell parents that their hands are tied as a result of  
25 many federal obligations.





1                   According to this letter from the U.S.  
2 Department of Education, our commissioner asked a lot of  
3 questions about administrative procedures, and he was  
4 directed by the U.S. Department of Education regarding  
5 administration of the state schools. So it is apparent  
6 that our state is trying to have it both ways. When it  
7 benefits the state, we're going to say federal rule runs.  
8 When it doesn't benefit the state, and when it's to the  
9 detriment of children, oh, well, we're not going to enforce  
10 federal rules that protect children.

11                   I find that appalling. I find it a  
12 violation of conscience, and a violation of public policy.  
13 We have to trust the schools, and if this is the way we're  
14 going to be treated with this double talk, how can we trust  
15 our children to be in the schools?

16                   Second, she argued that it was voluntary.  
17 We have received a report, and you will be getting the full  
18 written up report from a teacher from a deed 60 Pueblo city  
19 school that says, in fact, the survey is not voluntary.  
20 She said in their district they were told it was mandatory.  
21 The students must participate under classroom participation  
22 rules. It was going to be a course credit, that's  
23 coercion, and the first person that testified and said,  
24 we're currently obeying state and federal law, apparently  
25 that's not true. And it's important that you, people, that



1 you don't look at the people's voice as just anecdotal  
2 evidence, oh, well, that's just parents talking.

3                   This is the reality. These are the children  
4 in the schools, and this is your job as the Board, and I  
5 implore you to please be the gatekeeper that's going to  
6 protect our children. That's what we elect you to be.  
7 Thank you for your time.

8                   MADAM CHAIR: And Sarah, if you'd -- you  
9 stay there for just a minute.

10                  MS. SAMPIO: Yes.

11                  MADAM CHAIR: I want you to know that we  
12 have a letter from the Colorado Health Department with a  
13 copy of the letter that goes out to the parents, and it  
14 must go out two weeks in advance, and it gives directions  
15 for exactly what they need to do to opt out.

16                  So I think you've received some incorrect  
17 information there about -- I mean, what the feds say. We  
18 all know that. But in Colorado I have every I'm very  
19 confident that we're following two weeks notice, opt out  
20 letters going to parents.

21                  If there is someone in any school district  
22 in the state that is telling their students they have to  
23 take it or something, that needs to be reported because  
24 that's not --

25                  MS. SAMPIO: You'll be getting that letter



1 today.

2 MADAM CHAIR: Okay.

3 MS. SAMPIO: Yes.

4 MADAM CHAIR: All right.

5 MS. SAMPIO: Thank you.

6 MADAM CHAIR: But thank you anyway for  
7 coming and telling, and talking to us.

8 MS. SAMPIO: Thank you very much.

9 MADAM CHAIR: All right. Is that -- is  
10 there anyone else that wants to speak? That's all the  
11 names that I have on my list. If not, thank you all very  
12 much for taking the time to come, and -- and express your  
13 views. We really appreciate that.

14 And now we will -- we -- we're skipping  
15 lunch, so we have to jump over here. What are we doing?  
16 Public comment. Now, we're on charter schools, right?

17 We will now have charter school hearing  
18 TriCity Academy and Delta Schools versus Arapahoe County  
19 School District Number 1, Second Appeal. If you would seat  
20 yourself to -- at the --

21 UNIDENTIFIED VOICE: Yep.

22 MADAM CHAIR: -- table --

23 UNIDENTIFIED VOICE: We were late.

24 MADAM CHAIR: -- we'll get ready to do  
25 that. Do I have to do anything else (inaudible)?



1 UNIDENTIFIED VOICE: No.

2 MADAM CHAIR: Okay. All right.

3 (Pause)

4 MADAM CHAIR: All right. The Colorado State  
5 Board of Education will now conduct a hearing in Case  
6 Number 14-CS-02, the second appeal of TriCity Academy, and  
7 Delta schools from the decision of the Arapahoe County  
8 School District Number 1's Board of Education to deny  
9 TriCity's charter school application after remand.

10 During this hearing the Board is acting in  
11 its capacity to hear appeals of charter schools, and will  
12 hold an appellate hearing under the relevant Charter School  
13 Appeal Law 22-30.5-108.

14 Appellate hearings are conducted very  
15 differently from regular Board meetings. The procedures  
16 are set forth in the Board's governing documents. I will  
17 review these procedures before we begin the hearing. I'd  
18 like to ask the person chosen to represent each party to  
19 enter your name in the record along with the party you  
20 represent. Which one of you would --

21 MR. SPARKS: Dustin Sparks, attorney for the  
22 Appellants, TriCity Academy, and Delta schools. And  
23 actually I have a request at this time that the district  
24 slides be turned off until it's their time to present.

25 MADAM CHAIR: You request the district's



1 mics be turned off?

2 UNIDENTIFIED VOICE: No, slides.

3 MR. SPARKS: Slides that are on --

4 MADAM CHAIR: Oh, the lights. Oh,

5 (inaudible) okay. Oh, is that what you want?

6 MR. SPARKS: Thank you.

7 MADAM CHAIR: And the second person who's --

8 is this you? Yes, Adele.

9 MS. REESTER: Adele Reester, attorney for  
10 the district.

11 MADAM CHAIR: All right. Please introduce  
12 those persons you have designated to answer questions and  
13 Board members.

14 MR. SPARKS: Certainly. To my left is Mr.  
15 Gillit, who is the TriCity Academy Board chair. He's a  
16 businessman, and Englewood Councilman. To his left is Alan  
17 McQueen, who has served as a public school principal, is  
18 currently the director of Innovation and Student Leadership  
19 at Platte River charter academy in Highlands Ranch, and he  
20 is the prospective principal of TriCity Academy.

21 And to his left is a Delta Schools team  
22 member, Brad Fisher, who is the director of SOAR Academy in  
23 Denver, which is also a charter school. He has worked  
24 there for five years. He has a consulting company serving  
25 nonprofits, and he is the one responsible along with Luke



1 Mund for preparing the budget for TriCity Academy.

2 MADAM CHAIR: All right. Thank you. Yes,  
3 Adele.

4 MS. REESTER: I have with me to my right  
5 Brian Ewert, superintendent of the Englewood School  
6 District. I also have Ethan Hemming, the executive  
7 director of the Charter School Institute, as well as  
8 Kristen Stolpa. She is the chief authorizing officer for  
9 the Charter School Institute where her role consists of  
10 managing all charter development, and the renewal  
11 processes, as well as design and maintenance of the  
12 performance framework, evaluation tools, and all data  
13 analysis, and performance reporting activities.

14 MADAM CHAIR: Thank you both. The role of  
15 the State Board is to consider only those issues raised in  
16 the Notice of Appeal. The Board has been provided with a  
17 record of the appeal. References to documents or testimony  
18 not present in the record on appeal will not be considered  
19 by the Board. In relation to those issues contained in the  
20 Notice of Appeal the Board will apply the following  
21 standard of review following oral argument.

22 The Board will decide whether it's in the  
23 best interest of the pupils of the school district or the  
24 community to support the local Board's decision to deny  
25 TriCity's charter school application.



1                   Only those individuals identified by the  
2 parties have the opportunity to address the Board. The  
3 Appellate, TriCity will present oral argument first. And  
4 somewhere I missed it, that 30 minutes where you -- do you  
5 want the entire 30 minutes or what do you want 20 ever  
6 reserve ten?

7                   MR. SPARKS: Madam Chairman, I would like to  
8 reserve ten.

9                   MADAM CHAIR: Okay. The same?

10                  MS. REESTER: The same, yes, please.

11                  MADAM CHAIR: All right. Mr. Sparks, you  
12 may use the podium behind you.

13                  MR. SPARKS: Thank you. Thank you, Madam  
14 Chairman, Board Members, Commissioner, and the CDE staff.  
15 I do want to take this opportunity to recognize two Delta  
16 School Board members first, and it will be much shorter  
17 than -- than last time.

18                  But Catherine Knox (ph) who is on the Board  
19 of Delta schools is the founding principle of Liberty  
20 Commons, and her school was just recognized by US World US  
21 News as the top high school in Colorado. I think that came  
22 out this week, so I just want to commend her for that.

23                  And also Delta School's Board Member  
24 Jonathan Berg (ph) is the executive director of James Irwin  
25 Charter Schools, and their high school was also recognized



1 as one of the top ten high schools in the state of  
2 Colorado.

3 All right. To begin. On January 7th, 2015,  
4 the State Board held that Englewood schools decision to  
5 deny TriCity's --

6 MADAM CHAIR: Speak up just a little,  
7 please. Yeah.

8 MR. SPARKS: Okay. Can you hear me now?

9 MADAM CHAIR: Yeah.

10 UNIDENTIFIED VOICE: Yeah.

11 MR. SPARKS: On January 7th, 2015, the State  
12 Board held that Englewood's school's decision to deny  
13 TriCity's application was contrary to the best interest of  
14 the pupils, school district, or community. Thus, this  
15 Board has already ruled on the merits of TriCity Academy's  
16 application.

17 The applicants are before you again today on  
18 the second appeal, because Englewood school's has  
19 disregarded the Board's prior order, and has again denied  
20 it to the -- decided to deny the children of its district a  
21 free public school alternative to the district's low  
22 performing monopoly.

23 The appellants are requesting that you order  
24 the following. The final decision of the Englewood Schools  
25 Board of Education was contrary to the best interest of the





1 pupils, school district, or the community. A contract  
2 condition imposed by the district requiring TriCity to open  
3 in the fall of 2015 instead of the fall of 2016 is not in  
4 the best interests of the pupils, school district, or  
5 community.

6                   And third, that the Colorado Department of  
7 Education shall grant TriCity Academy 90 days from the date  
8 of the district Board approves the application by a  
9 resolution to enter into a charter contract in order to  
10 receive the charter school startup grant that it was  
11 rewarded based on the merits of its application, and have  
12 until --

13                   UNIDENTIFIED VOICE: Can you repeat that?

14                   MR. SPARKS: Absolutely.

15                   UNIDENTIFIED VOICE: I -- I -- lost me  
16 somewhere. Please. The last -- just the last one.

17                   MR. SPARKS: Just the -- okay. We're also  
18 asking that this Board direct the staff of the Colorado  
19 Department of Education to allow TriCity Academy 90 days  
20 from when it enters into a contract with the district in  
21 order to receive the charter school startup grant that it  
22 was awarded based on the merits of its application, and  
23 then have until July 1st, 2016 to use those funds.

24                   UNIDENTIFIED VOICE: Since -- is -- is this  
25 -- is this often done that the department has -- that once



1 a charter gets moving that the department participates?

2 MR. SPARKS: Well, so that charter school  
3 applicants applied for a startup grant from the Colorado  
4 Department of Education, and was awarded nearly \$600,000  
5 from Colorado Department of Education. But there was a  
6 condition that they have a signed charter school  
7 application by April 1st.

8 UNIDENTIFIED VOICE: Right.

9 MR. SPARKS: But given that we're in the  
10 middle of these appeals, we don't have a contracts to  
11 produce to CDE.

12 UNIDENTIFIED VOICE: Right. So --

13 MR. SPARKS: So we're asking this Board to  
14 overrule the current policy of the department, that there  
15 be an April 1st deadline given the fact that we are in the  
16 middle of these appeals.

17 UNIDENTIFIED VOICE: When are you opening?

18 MR. SPARKS: At this point we're asking to  
19 open in 2016.

20 UNIDENTIFIED VOICE: So why would you need  
21 to backtrack it? Why wouldn't next April 1 be appropriate?

22 MR. SPARKS: Well, the grant is funded by a  
23 federal grant --

24 UNIDENTIFIED VOICE: Right.

25 MR. SPARKS: -- and under the federal



1 guidelines schools have 18 months to use those funds before  
2 they open. And so what we're requesting is an opening date  
3 of -- of the fall of 2016, and the school be allowed that  
4 full 18 months or, you know, 15 months, whatever it ends up  
5 being from the time they have a signed contract to use  
6 those funds.

7 UNIDENTIFIED VOICE: And how would those  
8 funds be used if you're not even anywhere near opening?

9 MR. SPARKS: For buying textbooks deposits  
10 on -- on leases you know, computers, all the -- the things  
11 that a school needs to -- to open.

12 UNIDENTIFIED VOICE: Okay. Thank you.

13 MR. SPARKS: The funds are designed to -- to  
14 have a portion of them that are used before the school  
15 opens for that purpose. It's just the -- the window in  
16 which the school is being allowed to use it would be  
17 changed from, you know, a short window to the full possibly  
18 18 months that the federal government allows for the grant  
19 program.

20 UNIDENTIFIED VOICE: Well, what if they  
21 grant the money, and then you don't have the students?

22 UNIDENTIFIED VOICE: Or the school?

23 UNIDENTIFIED VOICE: In 2016?

24 MR. SPARKS: That is a risk with every grant  
25 that is -- is given under this program. And if you don't



1 meet the goals under that program, you don't get the two  
2 second installments of the grant money.

3 UNIDENTIFIED VOICE: But usually the time  
4 period between April 1, and when it's open is only x number  
5 of months, six --

6 MR. SPARKS: Yes.

7 UNIDENTIFIED VOICE: -- less than six  
8 months.

9 MR. SPARKS: So April --

10 UNIDENTIFIED VOICE: As opposed to what  
11 you're asking for, which is 18 months before school opens.  
12 That's a higher level of risk or do I misunderstand what  
13 you're saying?

14 MR. SPARKS: Well, typically a charter  
15 school wouldn't wait until April 1st to have a -- a charter  
16 contract. That was the absolute deadline --

17 UNIDENTIFIED VOICE: Right, I get that part.

18 MR. SPARKS: (Inaudible).

19 UNIDENTIFIED VOICE: I'm saying that you're  
20 still eligible to putting your application again. You'll  
21 have a contract, assuming that you get what you wish as of  
22 April 1, next April 1, and you're in great shape. But  
23 you're asking us to backtrack to this year when you're not  
24 even opening in 2015.

25 MR. SPARKS: Well --



1 UNIDENTIFIED VOICE: I'm trying to get a  
2 justification --

3 MR. SPARKS: Right.

4 UNIDENTIFIED VOICE: -- for your request  
5 that makes you different than other charter applications.

6 MR. SPARKS: The justification for the  
7 request is that, that is how the federal program is  
8 designed, and until recent years that is how Colorado  
9 Department of Education ran the program. So there's a  
10 recent change deviating from the federal criteria. It  
11 actually --

12 UNIDENTIFIED VOICE: Okay.

13 MR. SPARKS: -- other states have gotten in  
14 trouble with the federal government for not allowing more  
15 time. So --

16 UNIDENTIFIED VOICE: Than six months?

17 MADAM CHAIR: So if -- if this -- if this --  
18 if -- if we had not -- you had not had to go back -- if --  
19 if we had not denied the request, you would have been ready  
20 to open in 2015? But because of the -- the --

21 MR. SPARKS: Yeah, so the --

22 MADAM CHAIR: -- denial, and the time it  
23 took?

24 MR. SPARKS: Yeah. So because the district  
25 denied the charter application there's, you know, kind of a



1 legal impossibility of opening at this point, because if  
2 you decide in the favor of the applicant today, the Board -  
3 - the local Board will have 30 days to approve the charter  
4 application.

5 MADAM CHAIR: Yeah.

6 MR. SPARKS: They will then have another 90  
7 days before they actually have to enter into a charter  
8 contract, which puts us in mid-September, which is a month  
9 after the opening day to the school, (inaudible).

10 MADAM CHAIR: And --

11 UNIDENTIFIED VOICE: (Inaudible).

12 MADAM CHAIR: -- and in order to pursue --  
13 to preserve the -- the grant, you need to make that kind of  
14 arrangement. Is that what you're saying?

15 MR. SPARKS: Yeah. So if this Board does  
16 not decide to override the -- the standard policy of -- of  
17 the department, then we will lose that grant money --

18 MADAM CHAIR: Okay.

19 MR. SPARKS: -- and then have to apply  
20 again.

21 UNIDENTIFIED VOICE: Reapply.

22 MADAM CHAIR: I understand. Thank you.

23 UNIDENTIFIED VOICE: Mr. Sparks, do you --

24 MR. SPARKS: Yes.

25 UNIDENTIFIED VOICE: -- have a school? Do



1 you have a -- a -- a -- an actual building?

2 MADAM CHAIR: Building?

3 MR. SPARKS: No, there is no actual  
4 building. Without an approved charter application, we  
5 cannot enter into a -- a contract, and reasonably have any  
6 means to pay a -- a lease. So, no, there is no physical  
7 building, and until there is a signed charter contract, we  
8 are not going to sign a lease for any physical building.

9 UNIDENTIFIED VOICE: So then you can't buy  
10 computers. Oh, I guess you could. And if you put them in  
11 a storage area, because --

12 MR. SPARKS: Yeah.

13 UNIDENTIFIED VOICE: -- you don't have a  
14 school.

15 MR. SPARKS: Well, technology changes so  
16 rapidly that computers would be kind of the last thing you  
17 would buy to have them just in time for school --

18 UNIDENTIFIED VOICE: Oh, but you said that  
19 you --

20 MR. SPARKS: -- opening, but --

21 UNIDENTIFIED VOICE: -- wanted to buy  
22 computers (inaudible).

23 MR. SPARKS: Oh, absolutely. So the funding  
24 that would be provided during that possible 18 month period  
25 would be used to buy computers. So things, like,



1 curriculum, desks, and things that, you know, don't rapidly  
2 change based on technology would be purchased further in  
3 advanced, while things, like, computers that could be  
4 completely, you know, updated in a six month period will be  
5 purchased closer to the opening of the actual school.

6 UNIDENTIFIED VOICE: So could you answer for  
7 me why you're applying to two districts?

8 MR. SPARKS: Absolutely.

9 UNIDENTIFIED VOICE: You -- you give me  
10 absolutely no confidence that you have any idea where your  
11 kids are coming from, I think. Or where you're going to  
12 locate?

13 MR. SPARKS: Yeah, so these two districts  
14 are touching neighbor districts --

15 UNIDENTIFIED VOICE: Sure.

16 MR. SPARKS: -- that are both extremely  
17 small. Sheridan is one of the smallest districts, you  
18 know, in the state, and given the fact that the desire of  
19 the applicant group was to serve the students focused  
20 around these two districts. Because of the limited  
21 facility options within the two districts, they applied to  
22 both of the districts. Also in addition to the fact that  
23 Englewood had denied two charter school applications in the  
24 two prior years, Sheridan had no track record of receiving  
25 charter school applications, and did not have a track





1 record of -- of denying them.

2                   The applicants hoped that one of the  
3 districts would approve it, and not have to go through this  
4 appeal process. So if Sheridan had agreed to having this  
5 charter school, we wouldn't have to be before you today on  
6 either of these appeals, but because both of those  
7 districts denied it, we're still trying to pursue  
8 (inaudible).

9                   UNIDENTIFIED VOICE: On what basis are you  
10 going to decide, assuming we do again what we did last  
11 time, on what basis are you -- what -- what criteria will  
12 you use to pick a district? Because you can't, you can't  
13 be authorized in both. At some point, someone's going to  
14 have to make a choice.

15                   MR. SPARKS: Yes.

16                   UNIDENTIFIED VOICE: And it's about the  
17 kids.

18                   MR. SPARKS: Absolutely.

19                   UNIDENTIFIED VOICE: And how they get to  
20 your school, and who they are.

21                   MR. SPARKS: So there's a 120 days after  
22 today in order -- before we will have, you know, before we  
23 would have to have a charter contract per statute. So  
24 there could be many disputes just regarding that contract,  
25 because the application itself is not a binding contract,



1 but it is a proposal of -- of an idea of a school. And the  
2 contract itself dictates terms, like, how much what kind of  
3 spend model are you going to use, and insurance model or is  
4 the school going to, you know, provide a lot in-house. A  
5 lot of that is addressed in the application for what the  
6 applicants desire, but it's still up to the school district  
7 to make some of those decisions.

8                   And so depending on the terms of each  
9 contract that we're able to negotiate with each district,  
10 and the facility choices at that time will depend on which  
11 district we actually open in.

12                   UNIDENTIFIED VOICE: So you don't actually  
13 care where the kids come from?

14                   MR. SPARKS: Well, they're so close together  
15 that it's basically the same neighborhood divided by  
16 district lines. So it's not like they're two separate  
17 communities or two separate groups of kids. They just  
18 happen to live in separate school districts, so a school on  
19 the line of one of the of the districts is really the ideal  
20 location so that we can serve both of those districts.

21                   UNIDENTIFIED VOICE: Right. But what if  
22 it's on the other end? What if it's on the extremity?

23                   MR. SPARKS: If it's on --

24                   UNIDENTIFIED VOICE: What's -- what's the  
25 length of -- I guess I'm asking -- I didn't ask that well.



1 What's the extremity of the districts? Because you were  
2 talking the distance. You're talking about poor kids  
3 serving poor kids in these two districts. So if you're on  
4 the border, the outside border of either one of these, is  
5 there transportation?

6 MR. SPARKS: All these districts are  
7 extremely small, so that transportation is not a -- a far  
8 distance, but this is, you know --

9 UNIDENTIFIED VOICE: How far?

10 MR. SPARKS: -- one of the --

11 UNIDENTIFIED VOICE: that's what I'm trying  
12 to ask somebody here who truly knows.

13 MR. SPARKS: Mr. Judd, do you know the size  
14 of these two (inaudible)?

15 UNIDENTIFIED VOICE: How many miles?

16 MR. JUDD: Uh, (inaudible) just almost six  
17 square miles.

18 UNIDENTIFIED VOICE: Six square miles?

19 MR. JUDD: Six square miles.

20 UNIDENTIFIED VOICE: Thank you.

21 MR. JUDD: Two by, you know, two by three,  
22 and I believe that uh, even though the district does not  
23 provide -- provide busing (inaudible) two miles over. So a  
24 lot of the -- a lot of the students of Englewood do still  
25 have to walk quite a distance as well. So we would hope



1 for a centralized location that will be able to meet that  
2 centralized need, and that's -- that's what we -- I do not  
3 have the exact --

4 UNIDENTIFIED VOICE: Centralized to  
5 Englewood, not centralized between the two?

6 MR. JUDD: Oh, centralized to which location  
7 the Board -- this Board chooses. Today hopefully --

8 UNIDENTIFIED VOICE: You understand why I'm  
9 really frustrated here?

10 MR. JUDD: (Inaudible) and -- and the reason  
11 we can't give you exact is because we don't know exact, and  
12 -- and until we get a contract we won't know.

13 UNIDENTIFIED VOICE: Go ahead, ma'am.

14 UNIDENTIFIED VOICE: For clarification, I  
15 think what they're saying, Member Schroeder, is that they  
16 want to locate close to the district lines, depending on  
17 which district they land in. They want to land close to  
18 the district lines, so that they can serve both districts.

19 UNIDENTIFIED VOICE: Both, right.

20 UNIDENTIFIED VOICE: And --

21 UNIDENTIFIED VOICE: And -- and I think my -  
22 - my concern is little people don't go six miles.

23 MR. JUDD: It would not be -- that's six  
24 square miles. Let me -- let me also --

25 UNIDENTIFIED VOICE: Oh, six square miles?



1 MR. JUDD: Six square miles.

2 UNIDENTIFIED VOICE: Misunderstood.

3 UNIDENTIFIED VOICE: No.

4 UNIDENTIFIED VOICE: Misunderstood.

5 MR. JUDD: And -- and the school that we  
6 had, but we had to, because of the appeal process they --  
7 they no longer wanted to negotiate with us, because they  
8 had to move on was right on that border. We could have  
9 served both districts --

10 UNIDENTIFIED VOICE: Okay.

11 MR. JUDD: -- in that location, but due to  
12 the appeal we'd ask (inaudible).

13 UNIDENTIFIED VOICE: Okay.

14 MR. SPARKS: And this is another reason that  
15 that startup grant is very important, because it would  
16 allow for more money to provide busing services to these  
17 students. So --

18 UNIDENTIFIED VOICE: Is that actually in  
19 your application providing busing?

20 MR. SPARKS: Well, we could not make an  
21 assumption --

22 UNIDENTIFIED VOICE: Anybody can -- can --

23 MR. SPARKS: -- that we would receive the  
24 startup grant, so we submitted a budget that worked based  
25 on the PPR numbers. And so --



1 UNIDENTIFIED VOICE: And not the grant? You  
2 did not include the grant in your estimate, in your budget?

3 MR. SPARKS: No. No.

4 UNIDENTIFIED VOICE: Okay.

5 MR. SPARKS: So the grant would be  
6 additional money that would allow the school to provide  
7 more services to students, like, busing.

8 UNIDENTIFIED VOICE: Thank you.

9 MR. SPARKS: All right. So instead of  
10 following the Board's order that gave four specific  
11 instructions, each of which started with the words, "It is  
12 recommended that Arapahoe County School District Number 1,  
13 and TriCity Academy negotiate and reach an agreement," the  
14 district disregarded the order, failed to negotiate in good  
15 faith, and had no interest in reaching an agreement with  
16 TriCity.

17 The district is accredited with an  
18 improvement plan for the current year. This is a  
19 significant improvement over the turnaround plan in 2010.  
20 However, it is extremely -- extremely disrespectful of such  
21 a low performing school district to disregard the Board's  
22 order, and deny the children of its district a free  
23 alternative to its low performance schools.

24 This is the third charter school application  
25 the district has denied in as many years. When I addressed



1 the CSI review that assume you all have read about in your  
2 briefs or in our briefs.

3 UNIDENTIFIED VOICE: Is -- is this a new  
4 review or does this still go back to the initial review  
5 that --

6 UNIDENTIFIED VOICE: There's no -- there's  
7 no information that supposed to be considered? This is  
8 CSI's review.

9 UNIDENTIFIED VOICE: Thank you. You're  
10 right. You're right. Okay. So it's that -- it's that  
11 initial one. It's not based on --

12 UNIDENTIFIED VOICE: Right.

13 UNIDENTIFIED VOICE: -- work that's been  
14 done since?

15 MR. SPARKS: Well, so the review that CSI  
16 did was not the initial review of the application under  
17 which you decided the last appeal on. So instead of  
18 following the State Board's specific instructions on  
19 negotiating and reaching an agreement, the district spent  
20 its time and resources finding more experts to review the  
21 application. So it went to the Charter School Institute,  
22 which oddly enough, the applicants had advocated for the  
23 Charter School Institute to be the ones to review the  
24 application in the first place, given the district's lack  
25 of experience in reviewing charter school applications.



1                   But so after the first appeal, they brought  
2 in CSI to do their review, and CSI conducted a review using  
3 ten consultants or some I believe were -- were staff  
4 members, but others were hired out to review the  
5 application, and they conducted the entire review over one  
6 weekend. So, which led to many mistakes in the review  
7 process.

8                   So see, some examples --

9                   UNIDENTIFIED VOICE: (Inaudible) review.

10                  MR. SPARKS: -- of those egregious mistakes  
11 is that -- that scored the application incorrectly was that  
12 -- I'm sorry -- the first example that TriCity was docked  
13 for not including information on a charter management  
14 company, so an issue that has -- was discussed at length  
15 last time addressed in briefs, but there is no charter  
16 school management company. Delta schools is not a  
17 management company. It does not run the school, does not  
18 provide the curriculum, does not provide instruction, but  
19 is merely a consultant to the charter schools Board. And  
20 all decisions are made by the Board, curriculum choices,  
21 hiring choices. The management company is a consultant as  
22 an I am a consultant.

23                  The application was also marked off for  
24 providing links to research that no longer worked. Well,  
25 the CSI reviewers either showed no grades or did not have





1 an understanding that the application was submitted  
2 previously six months prior to their review, so web  
3 addresses change, and aren't necessarily going to always  
4 work six months later when you're citing to a research  
5 project, and so they were scored down for that.

6                   They were also marked down for they're not -  
7 - because there was no charter school Board. There -- some  
8 of the reviewers did not understand that there was actually  
9 a separate charter school Board apart from Delta schools.  
10 Mr. Gillit is the chairman of that Board. He's here before  
11 you today. He was here before you in January, and has been  
12 on the Board since the inception of TriCity Academy, and  
13 has been the driving force behind the school. They --

14                   UNIDENTIFIED VOICE: How many others are on  
15 the Board?

16                   MR. SPARKS: Mr. Gillit, do you know?

17                   MR. GILLIT: (Inaudible) four.

18                   UNIDENTIFIED VOICE: Four? And then you --  
19 do you have policy that adds to the Board once you get  
20 parents involved? Do you -- do you know what the structure  
21 is?

22                   MR. GILLIT: Once --

23                   UNIDENTIFIED VOICE: By law, I'm sorry.  
24 Bylaws, I think is what I'm asking about.

25                   MR. GILLIT: You're right. Once -- once our



1 charter's applications is approved then we go from a --  
2 from the initial team to a school -- a school Board, that -  
3 - all that will we decided then. I (inaudible) --

4 UNIDENTIFIED VOICE: So the bylaws have not  
5 been --

6 MR. GILLIT: -- I may or may not be part of  
7 that continuing Board.

8 UNIDENTIFIED VOICE: Okay. Thank you.

9 MR. SPARKS: Thank you, Mr. Gillit. Uh, the  
10 application was also marked off for only providing in the  
11 budget for approximately 40 computers. The reviewers fail  
12 to see in the budget that there were over 200 computers  
13 that were going to be purchased for the school, and it is  
14 not an online school that requires one computer per student  
15 for the whole class period.

16 They are interacting with their teachers.  
17 They will be using pens and paper, and some, you know,  
18 physical text. They will be using the computers for a  
19 large portion of their instruction. But the curriculum is  
20 designed in a way where there needs to be approximately one  
21 computer per student, yet the reviewer failed to recognize,  
22 and account for approximately 150 to 200 computers in their  
23 review, and poorly scored that section of the application.

24 In addition, it's important to note that the  
25 judgment of the CSI administration has recently been called



1 into question by its own Board. Colorado Early Colleges  
2 Fort Collins requested to expand their program to include a  
3 six through eight middle school in Fort Collins. This is a  
4 school of distinction, and the administration initially  
5 told them no, you can only add an eighth grade. We don't  
6 think that's a good idea.

7                   So when the head of that school went to the  
8 CSI Board, and presented what she was doing, and what she  
9 wanted to do, the CSI Board overruled their own staff and  
10 said yes, you can open a six through eight middle school  
11 for all of 2015.

12                   Also, as far as the appellants are aware,  
13 the CSI -- thank you very much.

14                   MADAM CHAIR: Thank you. Ms. Reester.

15                   MS. REESTER: Madam Chair?

16                   MADAM CHAIR: Yes, go ahead.

17                   MS. REESTER: Madam Chair, Members of the  
18 Board. The issue before the Board today is whether the --

19                   MADAM CHAIR: Move your mic a little bit  
20 there.

21                   MS. REESTER: -- the issue before the Board  
22 today -- is that better?

23                   MADAM CHAIR: Yes.

24                   MS. REESTER: Is what --

25                   UNIDENTIFIED VOICE: You need an extension



1 on that microphone, so everybody doesn't have to lean over.

2 MS. REESTER: -- is whether this local  
3 district's Board of Education's decision to deny TriCity  
4 Charter application, when following the Charter School  
5 Act's requirements for an application process with an  
6 application that represents a high risk of failure is  
7 contrary to the best interests of the district's kids,  
8 pupils, and its community.

9 On this issue, we are asking you today to  
10 trust in the careful, deliberate, and well reasoned  
11 decision of the local Englewood School Board that has  
12 relied on numerous outside experts throughout this lengthy  
13 application process, including the Charter School  
14 Institute, and its state and national experts. We ask that  
15 you trust this process that denied the application based  
16 upon among other things, CSI's high risk assessment of this  
17 application.

18 Before we get into the merits of the  
19 application, it is imperative to touch upon your obligation  
20 here today, and remember that the Supreme Court's decision  
21 in the Booth case reminds us, and teaches us that this  
22 Board must substitute its judgment for that of the local  
23 Board. But in doing so, this Board concomitantly must also  
24 be subject to the same fiduciary obligations to the  
25 taxpayers as the Englewood School Board is to its



1 taxpayers. For to hold otherwise would sever and isolate  
2 this Board from any constraints imposed by virtue of your  
3 public office.

4                   When the district was in front of you for  
5 the first appeal in January, you heard directly from the  
6 superintendent of the year, Brian Ewert, about the  
7 particulars of the district, its students, its community,  
8 and its district. And I remind you we are here today with  
9 Englewood. Englewood, who was a turnaround district, who  
10 was a priority improvement district, and for two years has  
11 been an improvement district. Not the district that  
12 TriCity referenced in its reply brief that is at -- that is  
13 at risk of very soon losing its accreditation.

14                   Under this leadership, the district has a  
15 forward, and has shown forward progress, and an upward  
16 trajectory. Without getting into the particulars of this  
17 time of the district, like we did the last time, I ask you  
18 that you keep in mind this district. And as you keep in  
19 mind this district, you keep in mind this particular  
20 application. Not charter schools in general, not charter  
21 application in general, but this particular merits of this  
22 application as you do your due diligence in making your  
23 decision today.

24                   Why did the -- the district partner with  
25 CSI? The district heard throughout this, after it already



1 had outside experts come and assist in this process, heard  
2 from TriCity that it questioned those outside experts.

3           The district also heard Mr. Durham, and  
4 others at -- in the January Board hearing question that  
5 expertise, so the district did partner with CSI in order to  
6 get technical assistance, for not only reviewing this  
7 application, and reconsidering this, and this process, but  
8 also for future if a contract is to negotiated, if more --  
9 if more charter applications are received.

10           The district knew that it partnered with CSI  
11 no matter what that result of its risk assessment would be,  
12 whether it would support an approval or a denial. The  
13 analysis in this, as this slide with CSI's high risk visual  
14 shows, this is a high risk assessment, a high risk for  
15 failure, for failure of the business model, for failure of  
16 the students.

17           In a moment I'll talk further about the  
18 application merits, but I do want to explain that the  
19 district also reached out to the Colorado League of Charter  
20 Schools. I communicated with Nora Flood, and although she  
21 and the league cannot comment directly on the merits of  
22 this application, because TriCity did not go through their  
23 new development and review process, she, president of the  
24 Charter League pointed me in the direction of two documents  
25 on the league's website, that supports and reinforces the



1 process that was used by the district, and by CSI in  
2 reaching this denial -- denial of this application.

3           The first document she pointed me to is the  
4 league's quality standards for developing charter schools.  
5 This document was created in order to provide clear  
6 guidance for developing groups, and what it means to be  
7 high quality, and a successful application. It's  
8 interesting to note the introduction of this does point to  
9 two components for someone to likely be successful with an  
10 application and a startup.

11           One is a strong application, and the second  
12 is a high quality founding group. Both are required,  
13 neither is present here today. Although TriCity may be  
14 able to argue that with its consultants, Delta schools, and  
15 others that it can prop itself up for its founding quality,  
16 and lean heavily on Delta schools whose members do have  
17 various experience in the charter industry. What is  
18 notably missing here is a quality and strong application.

19           Nora Flood particularly appointed me to in  
20 the Community Outreach and Founding Committee Standards on  
21 pages two and three. What the league looks for. For the  
22 applicant to have adequately researched the community in  
23 which the --

24           MR. DURHAM: Excuse me.

25           MS. REESTER: -- charter school will exist.



1 MR. DURHAM: Excuse me.

2 MS. REESTER: Yes.

3 MR. DURHAM: Is -- is this commentary from  
4 Ms. Flood in the original record or is this something that  
5 is really hearsay at this point? Something that's come in  
6 after the original record on which we're supposed to be  
7 basing this decision?

8 MS. REESTER: The original record that you  
9 would be basing this on would have ended February 3rd at  
10 the Public Hearing, so CDEs, startup grants, and so forth  
11 really isn't part of the record, and it is reaching out  
12 afterwards after that and getting their support afterwards.

13 MR. DURHAM: Well, that's -- that's very  
14 interesting, but I asked a question about whether or not  
15 Ms. Flood's comments are part of the original record.

16 MS. REESTER: And that's correct. They are  
17 not part of the original record that was heard by the local  
18 Board of Education on February 3rd.

19 MR. DURHAM: We're discussing those why?

20 MS. REESTER: Why? Because it -- it shows  
21 the process that the district went through, which has been  
22 questioned by TriCity and this Board about that process  
23 that they've used to vet and evaluate this application.

24 MR. DURHAM: All right.

25 UNIDENTIFIED VOICE: Can you talk to me





1 about the -- how many students have indicated interest in  
2 this program? What is their profile regarding free, and  
3 reduced lunch, and what community they come from?

4 MS. REESTER: Okay. To answer -- better  
5 answer that I'm going to turn to possibly Kristin, I'm not  
6 sure to talk a little bit further about that. I do also  
7 have a slide that does show the free and reduced lunch  
8 difference between the Englewood School District as well as  
9 the targeted schools targeted students from the Littleton  
10 Academy waitlist that's been heavily replied -- relied  
11 upon. Kristen, if you could answer her question or Ethan,  
12 whichever it would be.

13 MR. HEMMING: Sure. Sure. Thank you. So I  
14 think the question was in regard to the evidence we looked  
15 at for letters of intent, I believe the total was between  
16 300 and 350.

17 UNIDENTIFIED VOICE: Okay.

18 MR. HEMMING: Those letters, though, came  
19 from 75 percent of the letters came from areas outside the  
20 targeted communities of Littleton and or excuse me,  
21 Sheridan Englewood.

22 UNIDENTIFIED VOICE: Seventy-five percent  
23 came from outside?

24 MR. HEMMING: Outside the target area.

25 UNIDENTIFIED VOICE: The canvas eight ZIP



1 codes, and five of them were outside of the school  
2 district. So a majority of people that they were  
3 canvassing were in the Littleton School District, which is  
4 not the target population --

5 UNIDENTIFIED VOICE: Right.

6 UNIDENTIFIED VOICE: -- that they identified  
7 intending to serve.

8 UNIDENTIFIED VOICE: And Denver? If -- if I  
9 recall correctly, Denver also or not?

10 UNIDENTIFIED VOICE: Not that I recall.

11 UNIDENTIFIED VOICE: So it's largely  
12 Littleton?

13 UNIDENTIFIED VOICE: Yes.

14 UNIDENTIFIED VOICE: May I ask a question?

15 MADAM CHAIR: You -- you don't have to ask  
16 me.

17 UNIDENTIFIED VOICE: Okay. My question is  
18 about engaging with CSI in this manner. My impression of  
19 the role of CSI is a state entity that has adopted  
20 standards, national standards for quality of charter  
21 schools, and they may be called upon for various roles, and  
22 to submit input, but, I mean, appearing this way connected  
23 to a school district strikes me as odd. And can you  
24 explain that? I mean, --

25 UNIDENTIFIED VOICE: I --



1 UNIDENTIFIED VOICE: -- my sense is more of  
2 a -- a dispassionate for objective rule as opposed to  
3 joining with the school district.

4 UNIDENTIFIED VOICE: And I believe they do  
5 that objective rule, and have that partnership, but I'll  
6 let Ethan explain better what not only with this district,  
7 but with the other partner districts that they do work for.

8 MR. HEMMING: Sure. I appreciate the chance  
9 to respond to that. So CSI developed a partnership  
10 authorization initiative two years ago with the express  
11 purpose of fulfilling a statutory charge of being the model  
12 authorizer. So we do see ourselves as objective and  
13 dispassionate, but we do see ourselves as on either side of  
14 any situation pursuing quality authorization first, which  
15 leads to quality charter schools.

16 UNIDENTIFIED VOICE: So the word  
17 "partnership," doesn't suggest objectivity.

18 MR. HEMMING: I think it suggests providing  
19 resources that we acknowledge of all 178 districts, though,  
20 throughout the states don't have the resources to provide  
21 effective quality oversight of charter schools, which is in  
22 the interest of the charter schools students and the  
23 outcome.

24 UNIDENTIFIED VOICE: What strikes me as  
25 opening a door to conflicts of interest, but perhaps that's



1 beyond our discussion.

2 MS. REESTER: Thank you. Additional support  
3 for the process that the district has gone through can also  
4 be found in the National Association of Charter School  
5 authorizers, Principles and Standards for Quality Charter  
6 School Authorizing. These standards were promulgated by  
7 the State Board in 2012.

8 While acknowledging the district does not  
9 yet operate fully under these, it is clear that the best  
10 practice is to have an external review team. And this  
11 district alone --

12 UNIDENTIFIED VOICE: Excuse me. I have a  
13 quick question.

14 MS. REESTER: Sure.

15 UNIDENTIFIED VOICE: Before we run out of  
16 time. I would like know what -- what have you as a  
17 district done since our decision to work with TriCity  
18 Academy to negotiate a contract? What actions have you  
19 taken?

20 MS. REESTER: Sure. In January, shortly  
21 after receiving those instructions from the State Board, I  
22 was in contact with Mr. Sparks, and we set together a  
23 process that we would use where we written -- had a written  
24 exchange of information on January 15th. So each submitted  
25 list of written questions and requests for documents,



1 exchanged that then on January 21st.

2                   Following that we met in person. On January  
3 23rd it was Mr. Sparks, and Denise Mund from Delta schools  
4 as well as Mr. Ewert, Ms. Hanrahan (ph), and myself from  
5 the district.

6                   And so we discussed then the written  
7 correspondence that we had exchanged further, talked more,  
8 and agreed to meet again on the January 29th. So we met  
9 again. Mr. Hemming actually joined us for that. Had  
10 further discussions there. We were actually able to reach,  
11 if you look in the denial resolution agreement on two of  
12 the instructions. I believe it was actually one, and then  
13 most of a second one. However, we did not be able to reach  
14 agreement on the third and fourth instructions.

15                   Part of that on the enrollment piece was the  
16 district's request for the applicant, and the appellant's  
17 to follow state statute, and provide that aggregate data  
18 that's required by law to be provided when it's requested.  
19 And at that January 23rd meeting, and as summarized in the  
20 notes following that meeting when we did a summary and  
21 confirmed them, TriCity does not believe it needs to follow  
22 the statute to provide the aggregate information that the  
23 district requested, because the State Board will approve  
24 its application anyway.

25                   That was on January 23rd. We had that



1 follow up meeting, some additional correspondence, and then  
2 had a February 3rd public hearing on this where members of  
3 the public could come where TriCity could present, and  
4 where the district updated its Board before they  
5 deliberated and made a decision.

6 Does that -- does that answer your question?

7 UNIDENTIFIED VOICE: So you're saying that  
8 on the first two suggestions you came to agreement?

9 MS. REESTER: Correct.

10 UNIDENTIFIED VOICE: That's the totality of  
11 the actions you took. Right?

12 MS. REESTER: Those were the -- the four  
13 instructions --

14 UNIDENTIFIED VOICE: But I mean the --

15 MS. REESTER: -- we're able to reach there.

16 UNIDENTIFIED VOICE: -- the meetings you  
17 just described, and the discussion. That's the totality --

18 MS. REESTER: That's the broad.

19 UNIDENTIFIED VOICE: Right. Right.

20 MS. REESTER: Yes.

21 UNIDENTIFIED VOICE: Okay.

22 MS. REESTER: Yes.

23 UNIDENTIFIED VOICE: I -- I guess I would on  
24 number two, which is the building awareness, and  
25 information about chartering and this particular



1 application. Do you have some examples of -- some body of  
2 evidence about what's gone on? What have you done? How  
3 perhaps that's related to the letters of intent or the --

4 MS. REESTER: So the marketing and the  
5 outreach --

6 UNIDENTIFIED VOICE: Yeah.

7 MS. REESTER: -- piece?

8 UNIDENTIFIED VOICE: What have -- what have  
9 you managed to do together? What was the agreement about  
10 creating more community awareness?

11 MS. REESTER: There was a marketing plan, a  
12 draft plan that was developed by TriCity that they provided  
13 to the district, and then the district took it. And Julie  
14 McGinley, oh, I think is here somewhere. The outreach, and  
15 community person for the district looked into it, whole  
16 things that the district could do to help, added that in,  
17 and at the end of these two meetings we had a -- a better  
18 developed marketing plan to get the -- the word out on the  
19 -- the potential school, and how it would be communicated  
20 throughout the district.

21 UNIDENTIFIED VOICE: And -- and is all of  
22 that pending the outcome of today or the outcome of the --  
23 of the application?

24 MS. REESTER: Correct. It's all pending,  
25 because --



1 UNIDENTIFIED VOICE: So nothing's really  
2 happened? A -- a community member can't say I went to a  
3 gathering last night at the rec center and -- and I heard  
4 about, you know, something that would promote -- not  
5 promote. Tell people about the -- the school that was  
6 planned, so --

7 MS. REESTER: The district hasn't done  
8 anything yet, but I'm not sure what TriCity, um --

9 UNIDENTIFIED VOICE: Right.

10 MS. REESTER: -- may have been doing --

11 UNIDENTIFIED VOICE: But this --

12 MS. REESTER: -- since last August or last  
13 summer before they --

14 UNIDENTIFIED VOICE: One question.

15 UNIDENTIFIED VOICE: One more question. Was  
16 CSI compensated for their review?

17 MS. REESTER: No, just like with all of  
18 their --

19 UNIDENTIFIED VOICE: You just volunteer?

20 MS. REESTER: -- other partner districts  
21 there's not compensation that goes back and forth.

22 UNIDENTIFIED VOICE: Okay.

23 MS. REESTER: In terms of their -- the CSI  
24 review, it was a high risk assessment. And as this slide  
25 shows 2012 is when the CSI started with this visual high





1 risk assessment, and since that time all schools that were  
2 rated green, the low risk, 27.3 percent have opened  
3 successfully. Those that were rated and evaluated as a  
4 moderate risk, the yellow 45.4 percent, less than half have  
5 opened successfully. And those in the red rated high risk,  
6 27.3 percent, such as this district here, those in the past  
7 rated that way, none has opened successfully based upon  
8 this evaluation rating, and this tool.

9 UNIDENTIFIED VOICE: May I interrupt? Can  
10 you describe the -- the variables that go into that metric?

11 MS. REESTER: I'm going to defer to CSI on  
12 how they put that together.

13 UNIDENTIFIED VOICE: Sure. So in this  
14 particular case, we use the standard rubric, an  
15 application, and what we found as we started to partner  
16 with other districts, is that our current Board of  
17 directors has different levels of threshold for risk or  
18 tolerance, risk tolerance (inaudible). And so we developed  
19 this visual tool, and cut the rubric based upon our  
20 experience where we thought that high risk or there was a  
21 predictive validity of a high likelihood of success versus  
22 high risk where there was not a likelihood of success.  
23 Meaning there were significant deficiencies in the  
24 application to even either generate a contract or to go on  
25 operationally or with capacity to open.



1                   So we divided and cut the rubric that most  
2 districts used in the state.

3                   UNIDENTIFIED VOICE: I would question or I  
4 guess I'd like to look more deeply at where you make those  
5 cuts, because I think that kind of a graphic --

6                   UNIDENTIFIED VOICE: Sure.

7                   UNIDENTIFIED VOICE: -- depicts a conclusion  
8 that could be questioned and needs greater analysis.

9                   UNIDENTIFIED VOICE: Thank you. Sure. But  
10 it has been highly predictive over the last couple of years  
11 and over 20 applications of use.

12                  UNIDENTIFIED VOICE: Yeah. Thank you.

13                  MR. DURHAM: How many of those 20  
14 application reviews actually received a contract? And they  
15 opened because they didn't -- because they got a contract,  
16 and then failed to open or do they open because they didn't  
17 -- didn't open because they didn't get a contract?

18                  UNIDENTIFIED VOICE: They either were denied  
19 by the authorizer or they withdrew their application --

20                  MR. DURHAM: And which was which?

21                  UNIDENTIFIED VOICE: -- (inaudible).

22                  MR. DURHAM: How many of each?

23                  UNIDENTIFIED VOICE: In the high risk bucket  
24 --

25                  MR. DURHAM: They were -- in the high risk -



1 -

2 UNIDENTIFIED VOICE: -- it would be a little  
3 over a quarter.

4 MR. DURHAM: -- were any of them actually  
5 given a contract and the opportunity to open?

6 UNIDENTIFIED VOICE: No. But in our history  
7 there have been some high risk applicants who withdrew,  
8 fixed their application in deficiencies, came back, applied  
9 again, and are now operating successfully.

10 MR. DURHAM: So do you have confidence in a  
11 district that's 0 for three and approval of charters is  
12 going to do any better with a better application or are  
13 they just anti charter?

14 UNIDENTIFIED VOICE: I --

15 UNIDENTIFIED VOICE: Yeah. I think my  
16 opinion on that is if -- if a district is working with CSI,  
17 it -- it guarantees a high likelihood of objectivity, and  
18 decision making. And I think to your point earlier about  
19 the conflict of interest, we don't see it. If you look at  
20 our record, and the evidence of districts we've worked  
21 with, we certainly don't always side with what the district  
22 might like. Aurora Adams 14 Salida (ph) most recently. So  
23 we provide a product and a process that is insulated, we  
24 believe from conflict.

25 UNIDENTIFIED VOICE: Oh --



1 MR. DURHAM: Is your -- is your opinion then  
2 that this -- this district is not anti-charter?

3 UNIDENTIFIED VOICE: I don't -- I don't  
4 think I can make a segment about anti or pro charter. I  
5 think it's a huge step forward for a district to engage in  
6 CSI, and being willing to commit to a process, and a public  
7 report that they do not control the outcome of.

8 UNIDENTIFIED VOICE: And I would also add  
9 that on the historical denials that Delta themselves said  
10 that they would support the district's denial of previous  
11 charter applications prior to this.

12 UNIDENTIFIED VOICE: When we look at the  
13 merits of --

14 UNIDENTIFIED VOICE: Excuse me, what --  
15 excuse me, repeat that.

16 UNIDENTIFIED VOICE: So Delta publicly said  
17 that they supported the district in --

18 UNIDENTIFIED VOICE: Delta being the --

19 UNIDENTIFIED VOICE: -- their denial.

20 UNIDENTIFIED VOICE: -- partner group said  
21 that they what?

22 UNIDENTIFIED VOICE: That they supported the  
23 denial of the district's prior charter applications,  
24 because they didn't have the capacity or demonstrate the  
25 readiness to open.



1 UNIDENTIFIED VOICE: The other two  
2 applications?

3 UNIDENTIFIED VOICE: The previous two  
4 applications Delta has publicly stated they too were not of  
5 supported those applications.

6 UNIDENTIFIED VOICE: So I guess we have to  
7 ask the other party that when (inaudible).

8 UNIDENTIFIED VOICE: Is Mr. (inaudible) --

9 UNIDENTIFIED VOICE: Not relevant.

10 UNIDENTIFIED VOICE: Not relevant?

11 UNIDENTIFIED VOICE: It's not particularly  
12 relevant to this one.

13 UNIDENTIFIED VOICE: In terms of the  
14 districts not in the best interest of the district, more  
15 than 35 reviewers of all of the districts where this  
16 application or a similar cut and pasted application has  
17 been submitted, and of these districts that represent 20  
18 percent of the current charter at sector throughout  
19 Colorado -- just hold on -- have denied the same or very  
20 similar application by the same Delta and other TriCity  
21 members. Okay. It's also not clear who is actually  
22 operating this charter school.

23 MADAM CHAIR: Okay. Thank you, (inaudible).

24 UNIDENTIFIED VOICE: Thank you.

25 MS. REESTER: And before rebuttal I wanted



1 to jump in here. There's been a question about what the  
2 Board can consider on -- on the appeal, on what is the  
3 record of appeal. What is the record of -- of appeal is  
4 what the local Board decided with the original -- on the  
5 original one, and what the Board -- the local Board decided  
6 on remand. So any supplemental materials that the local  
7 Board decided after this Board remanded, that may also be  
8 considered. I just wanted to clarify that point. Thank  
9 you.

10 MADAM CHAIR: Okay. Thank you. We are now  
11 ready for the final ten minutes of presentation by each  
12 member. We will now call on Dustin to use your ten  
13 minutes.

14 MR. SPARKS: Thank you, Madam Chair.

15 MADAM CHAIR: Thank you. Go ahead.

16 MR. SPARKS: So going back to the CSI  
17 review, there are multiple issues here. And, one, there is  
18 a conflict of interest when CSI is supposed to be an  
19 alternative authorizer to school districts, particularly in  
20 situations where districts had a history of denying charter  
21 school applications. And then they lose their exclusive  
22 chartering authority, it is then tradition that you then go  
23 to CSI to get authorized. So in a situation like that,  
24 you're basically limiting CSI's ability to then be an  
25 alternative authorizer, which they are supposed to be.



1                   The other issue with CSI's review is that it  
2 was entirely outside the scope of the State Board's order.  
3 They were not involved in the initial review process, and  
4 the State Board did not instruct the district to go hire  
5 more experts and review the application again, but said,  
6 here are four areas we want you to work on.

7                   UNIDENTIFIED VOICE: Did -- did you guys  
8 oppose then, the supplement? I -- I thought I just heard  
9 that after our decision that you all got together and you  
10 agreed to some of the things that you were going to look  
11 into in order to try to reach a contract? I'm now  
12 confused.

13                  MR. SPARKS: We did get together with the  
14 district, which in contrast to the -- the meetings with  
15 Sheridan, the initial meeting with Englewood was actually  
16 very hostile. Thankfully at the second meeting when Mr.  
17 Hemming was there it was a much more positive productive  
18 meeting.

19                  UNIDENTIFIED VOICE: Did you indicate that  
20 you were opposed to CSI participating in this, in these  
21 subsequent meetings? I'm just confused.

22                  MR. SPARKS: We -- we were not at all  
23 opposed to CSI participating in helping us reach work on  
24 these four issues. We were opposed to, and are -- are  
25 adamantly opposed to their reviewing the application again.



1 So the -- the appropriate role could have been for CSI to  
2 help us work through as an objective third party work  
3 through these issues, but instead of treating it as a work  
4 session where we're trying to actually work out whatever  
5 concerns they had, they treated it as a test.

6 All right, we want you to provide us all  
7 this information, and we're going to grade your application  
8 again in one weekend. And as I already pointed out, just  
9 some of the examples, the CSI reviewers who, you know, I  
10 don't question their general ability to review a charter  
11 school application, had a very short time frame, and made  
12 many, if you noticed, obvious mistakes in the missing  
13 pieces of the application. For instance, the 150 computers  
14 that they didn't see in the budget. So --

15 MADAM CHAIR: Mr. Sparks, I've been  
16 wondering, given the long timeline that you have, because  
17 of the appeal and everything, how confident are -- are you  
18 that you would be able to open the school in, you know in  
19 almost a year and a half?

20 MR. SPARKS: With -- without a doubt. There  
21 should be absolutely no problem in opening the school.  
22 There are more experienced charter school leaders working  
23 on this school than probably any charter school in the  
24 history of Colorado, and, you know, they are -- don't want  
25 this school to fail. So we have the resources both in





1 financing. We have financing for our facility lined up  
2 through Northstar Capital, and we have the expertise found  
3 a principal to run the school, curriculum has been  
4 developed, and it's just a -- a matter of getting that --  
5 that contract, and being allowed to run with it.

6 MADAM CHAIR: All right. Thank you.

7 MR. SPARKS: So I object, again, to the  
8 inclusion of any information from CSI as being outside the  
9 scope of the State Board's order. So regarding the  
10 meeting, just to clear up some mischaracterizations, this  
11 Board did approve the application last time without the  
12 data that the school district is requesting.

13 Delta school -- I'm sorry, TriCity does not  
14 have the data that the district is requesting. So you  
15 approved it once. We fully expect it to be approved again,  
16 yet we did not go back out, contact these parents, and ask  
17 them to provide the name of the school that their student  
18 is currently enrolled in. TriCity provided all of the non-  
19 personally identifiable information that was requested that  
20 is in its possession. And then regarding the outreach  
21 efforts, Mr Gillit would like to address that.

22 MR. GILLIT: Yeah, real quick. I know we're  
23 running out of time. Item number two is that we will work  
24 together on outreach. Here's an example of the outreach  
25 that the -- that they provided.



1                   Our school Board president, who is here  
2 today, and the communications director for the city saw the  
3 scathing article about TriCity and why it's bad for the  
4 city. So if you would hand this. It also calls into  
5 question your authority over a local Board.

6                   UNIDENTIFIED VOICE: I'm going to object to  
7 new documents coming up --

8                   MR. GILLIT: It -- it is public record. It  
9 -- it is out in the public. It's an article.

10                  UNIDENTIFIED VOICE: It's not part of the  
11 record here.

12                  UNIDENTIFIED VOICE: It's a your hub article  
13 (inaudible)?

14                  MR. GILLIT: I I'm using that as an example  
15 --

16                  UNIDENTIFIED VOICE: Richard --

17                  MR. GILLIT: -- of their -- their  
18 willingness to work with us. It was none. They, at every  
19 opportunity they had -- they made sure that they talked  
20 down about us. That they -- that they didn't. There was  
21 no, how can we make this work together for the good of  
22 both. It was, here's our demands and you're better do it.  
23 They also asked on our budget what -- how many sheets of  
24 toilet paper --

25                  UNIDENTIFIED VOICE: According to who?



1 MR. GILLIT: -- we thought that we would  
2 require for -- for the budget. I think that's a little bit  
3 of micromanagement. They also asked for my personal  
4 records as a --

5 UNIDENTIFIED VOICE: Excuse me Madam Chair I  
6 just wanted to say that why we do appreciate it, it is out  
7 of the scope and record.

8 MADAM CHAIR: All right. Thank you.

9 UNIDENTIFIED VOICE: Well, may I ask, though  
10 --

11 UNIDENTIFIED VOICE: (Inaudible).

12 UNIDENTIFIED VOICE: -- I mean is that --  
13 is that -- is -- is -- that is supplemental information  
14 that shows us whether the district actually did what the  
15 State Board remanded them to do. Is it not?

16 UNIDENTIFIED VOICE: The --

17 UNIDENTIFIED VOICE: So we can hear about  
18 CSI's consultation and review of the application again, but  
19 we can't hear about Englewood's actions --

20 MR. GILLIT: And -- and Nora Flood's  
21 comments.

22 UNIDENTIFIED VOICE: -- after remand, and  
23 Nora Flood's --

24 UNIDENTIFIED VOICE: Absolutely. I mean,  
25 that -- that -- those were in the briefs the conduct that



1 happened --

2 UNIDENTIFIED VOICE: Nora Flood's comments  
3 were not in the briefs.

4 UNIDENTIFIED VOICE: I'm sorry.

5 UNIDENTIFIED VOICE: Nora Flood's comments  
6 were not in the briefs.

7 UNIDENTIFIED VOICE: Where my -- where my  
8 concern is, is that the supplemental information it was  
9 provided by attorneys already, and those were the things  
10 that were taken in by the local Board on their decision  
11 making process, and that's where I think that the State  
12 Board needs to focus its consideration on. It's not  
13 deciding what -- what party were over preferences over it.  
14 Those documents were not provided before they weren't  
15 provided (inaudible) decision.

16 UNIDENTIFIED VOICE: (Inaudible).

17 MADAM CHAIR: And that's -- that's  
18 (inaudible)legal advice there.

19 UNIDENTIFIED VOICE: I don't know. I'm --  
20 I'm concerned that the district is being offered a lot of  
21 leeway, and that TriCity Academy is not. I just want to  
22 (inaudible)we have on the record.

23 MADAM CHAIR: Have we removed the -- a  
24 couple of minutes given back to him?

25 UNIDENTIFIED VOICE: Well, he's got time



1 (inaudible).

2 MADAM CHAIR: Do you have time to do it?

3 UNIDENTIFIED VOICE: That's not my  
4 (inaudible). If I could stop the time to ask (inaudible).

5 MADAM CHAIR: Does he -- does he get a  
6 couple more minutes is what --

7 UNIDENTIFIED VOICE: (Inaudible).

8 UNIDENTIFIED VOICE: Oh, well, I was just  
9 wondering if he had, you know, because we took a little bit  
10 of time here with this legal discussion. Do we add some  
11 time back onto for his?

12 UNIDENTIFIED VOICE: Yes.

13 MADAM CHAIR: Okay. Thank you.

14 UNIDENTIFIED VOICE: Yes, that's fine.

15 MR. GILLIT: And again, just to finish my  
16 comments. That's -- that -- that's the type of -- that's  
17 the type of response we've had as TriCity with the  
18 district. It's never been positive. It's always been more  
19 demands, more demands, instead of how can we come together,  
20 and that's all I want to say about that.

21 MADAM CHAIR: All right. Thank you. Go  
22 ahead.

23 MR. SPARKS: Thank you, Mr. Gillit. So this  
24 morning after your Board meeting already started, the  
25 districts continue to file documents in this case, one of



1 which was a letter of support from a third party. So they  
2 are trying very hard to enter in documents even after  
3 you're already in session into this, this case. And I  
4 believe last time at the hearing your legal counsel  
5 instructed you all that you can take judicial notice of  
6 matters, and what you decide to take judicial notice, so  
7 that that is within your authority to do.

8 How much time do I have?

9 UNIDENTIFIED VOICE: Three minutes.

10 MR. SPARKS: Three minutes. Okay. So  
11 again, to go over the things that -- that we're asking.  
12 We're asking you to approve this application, find that  
13 it's in the best interests of -- of the students, the  
14 community or -- or the school district, remanded back to  
15 the district with instructions to open that school, enter  
16 into a contract for the 2016, 2017 school year crucial. It  
17 -- it can't happen in 2015. It -- it it's not good for  
18 students, and it's really a legal impossibility.

19 The other matter, which is the grant. So  
20 the grant is --

21 UNIDENTIFIED VOICE: So let me ask you  
22 something about the grant.

23 MR. SPARKS: Absolutely.

24 UNIDENTIFIED VOICE: If it's against federal  
25 law, is it okay if we don't recommend that? Because you're



1 suggesting that this is solely Colorado, and I think what  
2 we're hearing is that this is not what Colorado is doing,  
3 is trying to be aligned with federal law. So can you  
4 accept the fact that we might not remand it for no other  
5 reason than the fact that it's against federal law, and you  
6 stand to lose the whole darn thing?

7 MR. SPARKS: Actually, it's quite the  
8 contrary. So the federal law allows for the 18 month time  
9 frame.

10 UNIDENTIFIED VOICE: If you qualify to begin  
11 with --

12 MR. SPARKS: Yes.

13 UNIDENTIFIED VOICE: -- but if you don't  
14 have a contract, you don't qualify.

15 MR. SPARKS: Well, so the application was  
16 reviewed and was qualified, but because of the district's  
17 repeated denial of the application, no contract was in  
18 place. So it's not a violation of federal law in the  
19 slightest to allow more time to have that contract be in  
20 place. So that's not a violation of federal law.

21 So where the state is going contrary to the  
22 federal law, is not allowing that time. So we're asking  
23 you to follow the practice of the federal government, and  
24 what they've specifically asked other states to do who have  
25 been dinged for this issue. We're asking you to follow



1 that instead of what the state (inaudible) --

2 UNIDENTIFIED VOICE: Well, I'd be grateful  
3 for some documentation based on what you're telling us.  
4 I'm sure you can --

5 MR. SPARKS: So in the briefs I provided  
6 citations to the federal law about this issue.

7 UNIDENTIFIED VOICE: That would be helpful.

8 MR. SPARKS: So -- so it's approve the  
9 application allow fall 2016 opening, and please get back  
10 the -- the grant money that is crucial to opening a  
11 successful school, which based on the merits was already  
12 approved by CDE. Thank you.

13 MADAM CHAIR: Thank you. Yes. Ms. Reester.

14 MS. REESTER: Thank you. Regarding the CDE  
15 Grant Application, could -- just a couple of things to  
16 note. One is that CDE likely should not have ever accepted  
17 it. One of the certifications is that there already is an  
18 approved charter school application or an approved  
19 contract. They accepted it, they looked at it, they gave  
20 about a page and a half of conditions for conditional  
21 approval. It's been since withdrawn. The money is in --  
22 back in the pool, and the grant money is simply no longer  
23 there.

24 In terms of the budget analysis performed by  
25 both the first outside experts, as well as CSI, the those





1 grant funds have without the grant then the analysis shows  
2 that there are deficits in years one to three. There are  
3 additional budget issues as well in terms of whether or not  
4 even whether or not the district or the TriCity gets those  
5 application -- that grant application.

6 In particular, TriCity used the wrong PPR.  
7 It didn't use the wrong numbers pulled from CDE's website,  
8 it used the wrong districts. It combined in this  
9 application to Englewood, some PPR years from Englewood,  
10 some from Sheridan, put them all in and it makes a deficit.  
11 It makes budget presumptions unsound. There are problems  
12 with the budget that was submitted.

13 In terms of the CSI review, and the  
14 downgrading that Mr. Sparks mentions, no technicality that  
15 was mentioned in the argument resulted in a downgrade of  
16 the rating. They failed actually to meet standards on most  
17 of the application measures.

18 In terms of the process that was used, state  
19 statute tells us what we do in these appeals, and the  
20 review process. State statute tells us that in the first  
21 appeal the Board does issue instructions with  
22 recommendations, then it comes back to the Board for  
23 reconsideration. Reconsideration of the application on its  
24 merits.

25 The application then is what has been



1 submitted and what has been supplemented. The application  
2 statutory requirements specifically say how that is  
3 supplemented. The district had it supplemented, excepted  
4 that information, and took the totality of all of that in  
5 consideration when it did deliberate, and reconsider its  
6 application on February 3rd.

7                   The other statutory piece that TriCity has  
8 continued to violate is the one that is in here as well,  
9 22.30.5107(III). It simply says, "a charter school  
10 applicant shall provide upon the (inaudible) of the  
11 charting school district aggregate information concern --  
12 concerning the grade levels in schools in which prospective  
13 pupils are enrolled."

14                   It doesn't say it has to be included in the  
15 initial application on August 1st. It says that when it is  
16 requested, it is to be provided. It was requested last  
17 September. It could have been followed up. It could have  
18 been information that was gathered during this entire  
19 appeal, and the reconsideration and negotiations process,  
20 but it was not.

21                   In terms of, again, then who is operating  
22 the school? Is it TriCity or is it Delta? Who is the  
23 charter contract going to? As demonstrated by TriCity's  
24 inability to independently design its own program, right  
25 the application, handle or even participate in the



1 negotiations process, or work to secure community support  
2 and partnership, TriCity does not understand what it is --  
3 what is required to be an autonomous charter school.

4           TriCity does not know the students that it  
5 wishes to serve. Again, as part of those budget failures,  
6 it results from the students that it is targeting, the use  
7 of the PPR, the at risk, no facilities plan was provided.  
8 Not just a building, a facilities plan. Where are you  
9 going? How much is it going to cost? What are your  
10 assumptions? It's all built in there in the budget. It  
11 has an unsound budget.

12           As set forth in the application itself.  
13 TriCity's application has a goal that only 90 percent of  
14 its students will make one year's growth in one year's time  
15 in reading math, science, and writing.

16           UNIDENTIFIED VOICE: Excuse me. Is -- is it  
17 -- isn't it true though that that's no worse than logistic?

18           MS. REESTER: No, it's not true, and I can  
19 let Mr. Ewert answer that.

20           UNIDENTIFIED VOICE: Well, please do.

21           MR. EWERT: I would say the vast -- the vast  
22 majority of kids in Englewood make more than -- a  
23 significantly more than a year's worth of growth. We're  
24 not at the achievement level yet, but our growth is  
25 significant, and that's reported by the Denver Post as



1 well.

2 MADAM CHAIR: More than 90 percent?

3 MR. EWERT: Absolutely.

4 MS. REESTER: Additionally, other goals set  
5 forth in here regarding the achievement gap.

6 MADAM CHAIR: You can go ahead and  
7 interrupt.

8 UNIDENTIFIED VOICE: Oh, we -- we would need  
9 to really verify that. If you're saying that you have  
10 accelerated growth among the vast majority of your kids,  
11 I'd like to see that data.

12 MR. EWERT: If you remember in 2010 Englewood  
13 was a turnaround school district, and we're an improvement  
14 district now, and we're still on the trajectory to  
15 performance. Um, I would say that's that significant --  
16 that is a significant mark that demonstrates significant  
17 growth much higher than that.

18 UNIDENTIFIED VOICE: Yeah. That -- that  
19 data though is looking at -- the typical standard is one  
20 year's growth in one year's time, except for students that  
21 are behind and then --

22 MR. EWERT: Correct.

23 UNIDENTIFIED VOICE: -- they want to  
24 accelerate growth.

25 MR. EWERT: Correct.



1 UNIDENTIFIED VOICE: So I mean that's kind  
2 of a threshold of a minimum, and then you're accelerating  
3 for kids that need it. So I think pointing that out is --  
4 is not really fully giving credit for the model that this  
5 school is proposing, and the --

6 MR. EWERT: I --

7 UNIDENTIFIED VOICE: -- curriculum they're  
8 proposing.

9 MR. EWERT: -- if they're proposing to serve  
10 kids in Englewood and Sheridan, that's not enough. That's  
11 all I'm saying.

12 UNIDENTIFIED VOICE: And I think they say  
13 that in their application.

14 MR. EWERT: No, that's --

15 UNIDENTIFIED VOICE: This is their  
16 application.

17 MR. EWERT: that is their application.

18 UNIDENTIFIED VOICE: That's page 14.

19 UNIDENTIFIED VOICE: That's an excerpt.  
20 Thank you.

21 UNIDENTIFIED VOICE: That's an excerpt of  
22 page 14 of the application. That's correct.

23 UNIDENTIFIED VOICE: Correct.

24 MS. REESTER: Okay. They also have other  
25 goals in their application about reducing the achievement



1 gap by only one percent each year. This will result in  
2 closing the achievement gap for reading over a seven year  
3 time period, and for math more than a decade to close that.  
4 It's simply not acceptable for students, and not in the  
5 best interest of students, in particular are at risk  
6 children.

7                   The decision you have here today is not  
8 about choice. It's about a high risk application. It's  
9 not about education, it's about business. It's a poor  
10 quality application that is set up to fail as a business,  
11 and set up to fail the students. Any amount of work that  
12 must go into it to make it successful, will instead make it  
13 a district school instead of an autonomous charter school.

14                   The application has been reviewed by more  
15 than 35 different reviewers. That represents 20 percent of  
16 successful charter schools here in Colorado, and they have  
17 all said this application lacks merit. Following the  
18 Charter School X Application requirements, the best  
19 practices of CSI, best practices that is on the league's  
20 website, and this morning the National Association of  
21 Charter Schools authorizers, also has weighed in.

22                   This process that the district did is  
23 verifiable, is accurate, is good. Please follow their high  
24 risk assessment. The district followed this, and their  
25 local Board denied it. We ask today that this Board trust



1 in the process, trust in this vetting, and also deny this  
2 application as well. Thank you.

3 If you have further questions, I don't know  
4 if I have any more time.

5 MADAM CHAIR: That takes care. Are we okay  
6 on time? Um, any final questions anybody has? All right.  
7 Thank you.

8 MS. REESTER: Thank you.

9 MADAM CHAIR: This -- this -- that concludes  
10 the oral argument in the appeal and the Board will now  
11 deliberate, and research -- deliberate and reach a  
12 decision. Any questions? You cannot ask questions of  
13 them, but any -- any comments or questions that you would  
14 like to bring up in our discussion? (Inaudible). All  
15 right.

16 UNIDENTIFIED VOICE: Go ahead.

17 UNIDENTIFIED VOICE: I didn't think that  
18 that TriCity was ready. I didn't -- I didn't think that  
19 they knew the students that they were going to serve, at  
20 least limited English proficient students. At the very  
21 beginning, if you recall I -- I made that statement, and  
22 I'm standing by that statement that I -- I don't see -- I  
23 don't think that they really gave the time to look at the  
24 students that they were going to serve.

25 MADAM CHAIR: Okay. We have a choice of --



1 of -- oh, go ahead.

2 UNIDENTIFIED VOICE: So I guess my comment  
3 would be that I'm not opposed to the notion of another  
4 opportunity for the kids in this area. I'm very glad that  
5 no one's trying to open in 2015. I think that was up to  
6 me. That was obvious in January, but I'm -- I'm -- I'm  
7 glad that's come out that way.

8 It would be my personal preference that  
9 TriCity get the kind of help that's being offered to  
10 actually present a really strong application, rather than  
11 what we have here, which is let's take a shot at Sheridan.  
12 Let's take a -- let's see, where are we finding land. And  
13 I expect to be in the minority yet again, but nevertheless,  
14 I worry -- I worry a lot because this is about kids, and  
15 this is about some of, I think it's about some of our  
16 neediest kids, but I'm actually not sure.

17 I think it may very well be that it's  
18 Littleton kids, in which case this is a Littleton school.  
19 There's just so much in the air. I certainly respect that  
20 you want to do that. What happens if you've got the two  
21 extremes of students, that you get a lot of Littleton kids  
22 who are probably proficient or above at this point, and a  
23 lot of needy kid , and are you prepared for that kind of a  
24 diversity in your student body?

25 So that these are things that worry me, and





1 I think there's plenty of time to just go back to the  
2 drawing boards and do a good job, and I will be the first  
3 person to support at that point, because I do think this is  
4 an opportunity that our kids deserve.

5 MR. DURHAM: Thank you, Madam Chair. I  
6 think -- I think the problem -- the problem we're going to  
7 face here is that not every charter school is necessarily  
8 going to be a success, and certainly not everyone is  
9 destined to be a failure.

10 I just perceive that if Bob Shaffer were to  
11 try and move Liberty High School into the district it would  
12 probably be found deficient for some reason. I -- I think  
13 it would be ideal if -- if this could be renegotiated for  
14 2016. But I really, based on what I've seen, don't think  
15 the district would negotiate in good faith, and therefore I  
16 intend to vote for the charter, and I hope that it's not  
17 been killed by the delay tactics that may have cost the  
18 grant costs the school a grant.

19 So whether that's reinstatable or not, I  
20 have no idea. It would depend on federal law, and -- and  
21 things that are at this point likely don't control this  
22 Board, but -- but I'm certainly not going to award -- vote  
23 to reward a delay and -- and attempts to run the clock.  
24 And when you're 0 for three at chartering schools it tells  
25 me there's at least some bias against the charter schools.



1 MADAM CHAIR: Deb.

2 MS. SCHEFFEL: And my concern is that we're  
3 creating such a labyrinth of bureaucracy in getting,  
4 allowing choice to flourish in Colorado. We've had one of  
5 the longest standing charter laws in the nation, and we've  
6 had a lot of success with charters. Some charters don't do  
7 well. We get that. There's always a risk when you're  
8 trying something new.

9 When you look at a district that's been  
10 struggling that has no charters, and an entity that is put  
11 hours and hours into this application, imperfect as it may  
12 be, which is life. And finding people of incontrovertible  
13 reputation and experience to serve on -- on the Board of  
14 this charter, and to help with the curriculum, and to  
15 really put the right pieces in place, and then this is  
16 denied.

17 I mean, I the delay tactics I think have  
18 been -- do -- do not serve the students and the community  
19 well. And I -- I guess I continue to be confused by the  
20 role of CSI. I think that in -- in a -- an objective place  
21 in helping create another option for chartering is the role  
22 of CSI to create a partnership with the district strikes me  
23 as a very new role that I'm not familiar with, and  
24 certainly at least appears as a conflict of interest.

25 So we have thousands of kids on waiting



1 lists for charter -- charters. This district has no  
2 charters, and I would like to give it a chance to take a --  
3 to use the startup funds, to begin to serve students. Um,  
4 and I know personally some of the individuals that are  
5 contributing to this effort. They have wonderful expertise  
6 in serving students of need with special needs and all  
7 kinds of at risk achievement issues. And I -- I just think  
8 that it -- it -- it can be a wonderful addition to this  
9 district. And so I would like to see us approve it, and  
10 give it a chance to start, and -- and allow to begin in  
11 2016.

12 MADAM CHAIR: We have two choices of -- of a  
13 -- a motion here. Uh, the first one would be to say I  
14 moved to affirm the decision of the local Board of  
15 Education's on the grounds that it was not contrary. We  
16 don't have to memorize it -- to the best interest of the  
17 students. And the second one, of course, would say I move  
18 that the decision of the local Board was contrary to the  
19 best interest of the pupils, the school district, and  
20 community, and move to remand this matter to Araphoe County  
21 School District with instructions to approve TriCity's  
22 charter school application.

23 Is there a motion?

24 UNIDENTIFIED VOICE: I so move.

25 UNIDENTIFIED VOICE: Which one, the second?



1 UNIDENTIFIED VOICE: The second.

2 MADAM CHAIR: The second one, I assume.

3 UNIDENTIFIED VOICE: I -- I move that we --  
4 I move that we direct the district to approve TriCity's  
5 charter.

6 MADAM CHAIR: And is there a second to that?

7 UNIDENTIFIED VOICE: I second.

8 MADAM CHAIR: Pam? Deb, (inaudible). Is  
9 there any further discussion? Would you call the roll,  
10 please.

11 MS. BURDSALL: Steve Durham?

12 MR. DURHAM: Aye.

13 MS. BURDSALL: Uh, Dr. Flores?

14 MS. FLORES: No.

15 MS. BURDSALL: Jane Goff?

16 MS. GOFF: No.

17 MS. BURDSALL: Marcia Neal.

18 MS. NEAL: Aye.

19 MS. BURDSALL: Pam Mazanec?

20 MS. MAZANEC: Aye.

21 MS. BURDSALL: Dr. Scheffel?

22 MS. SCHEFFEL: Aye.

23 MS. BURDSALL: Dr. Schroeder?

24 MS. SCHROEDER: No.

25 MADAM CHAIR: Thank you. Recovered We



1 carried that vote by four-two. Thank you all.

2 (Applause)

3 MADAM CHAIR: Done and worked (inaudible) --

4 UNIDENTIFIED VOICE: All the hard work.

5 MADAM CHAIR: -- (inaudible) before us.

6 (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 22nd day of January, 2019.

/s/ Kimberly C. McCright  
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