



Colorado State Board of Education

TRANSCRIPT OF PROCEEDINGS
BEFORE THE
COLORADO DEPARTMENT OF EDUCATION COMMISSION
DENVER, COLORADO
May 13, 2015, Part 4

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 MADAM CHAIR: Okay.

2 UNIDENTIFIED VOICE: Groundhog Day.

3 MADAM CHAIR: Colorado State Board of
4 Education will now conduct a hearing on -- in Case Number
5 14 CS-03, the second appeal of TriCity Academy and Delta
6 Schools, Inc. from the decision of Sheridan School District
7 Number 2's Board of Education to deny TriCity's Charter
8 School application after remand.

9 During this hearing, the Board is acting in
10 its capacity to hear appeals of charter schools, and will
11 hold an appellate hearing under the relevant Charter School
12 Appeal Law 22-330.5-108. Appellate hearings are conducted
13 very differently from regular Board meetings. The
14 procedures are set forth in the Board's governing
15 documents. I will review those procedures before we begin
16 the hearing.

17 I'd like to ask the person chosen to
18 represent each party to enter your name in the record along
19 with the party you represent.

20 MR. SPARKS: Dustin Sparks on behalf of the
21 Appellants, TriCity's Academy and Delta Schools.

22 MADAM CHAIR: All right.

23 MS. REESTER: Adele Reester, attorney on
24 behalf of the Sheridan School District.

25 MADAM CHAIR: Thank you. Please introduce



1 the persons you have designated to answer a question of
2 Board Members for the Appellate, TriCity. Whom have you
3 designated?

4 MR. SPARKS: To my left is Alan McQueen,
5 who's the perspective principal of TriCity Academy. To his
6 left is the Board chair, TriCity Academy, Rick Gillit. And
7 to his left is Brad Fisher, who's a consultant with Delta
8 Schools, and is the person who along with Luke Mund put
9 together the budget for TriCity Academy.

10 MADAM CHAIR: Thank you for the, Appellate,
11 Sheridan School District, whom have you designated?

12 MS. REESTER: To my left is Michael Clough,
13 Superintendent of the district. And to my right is Ethan
14 Hemming, Executive Director of the Charter School
15 Institute, as well as Kristen Stolpa, the Chief Authorizing
16 Officer, also of the Charter School Institute.

17 MADAM CHAIR: Thank you. The role of the
18 State Board is to consider only those issues raised in the
19 Notice of Appeal. The Board has been provided with the
20 record on appeal. References to the -- to documents or
21 testimony not present in the record on appeal will be not
22 be considered by the Board.

23 In relationship to those issues contained in
24 the Notice of Appeal, the Board will apply the following
25 standard of review following oral argument. The Board will



1 decide whether it is in the best interest of the pupils,
2 the school district, or the community to support the local
3 Board's decision to deny TriCity's Charter School
4 application on second appeal.

5 Only the individuals identified by the
6 parties have the opportunity to address the Board. The
7 Appellate, TriCity will present oral argument first. And
8 may I assume that you're dividing it up 20-10?

9 MR. SPARKS: Yes, Madam Chairman.

10 MADAM CHAIR: Okay. We'll hear from you.

11 MR. SPARKS: Thank you, Madam Chairman,
12 Board Members, Commissioner, and the CDE staff. I will try
13 and not bore you with just a complete repeat, but as you
14 can see we're starting off different in that Superintendent
15 Clough and I had so much fun in -- in our meetings
16 together, he wanted to sit by me today. So -- because I
17 will freely admit we had fun, productive meetings with
18 Sheridan School District.

19 And he also did ask me to clarify that the
20 district is not one of the smallest in the state, but one
21 of the smallest in the metro area. So I think they make
22 more around 50 in the smallest in the state.

23 So I want to start off and address some of
24 the PPR numbers that were brought up before, and how they
25 apply to this -- this district, so I'm going to have Mr.



1 Fisher address those.

2 MR. FISHER: So --

3 MR. SPARKS: Let me get you this microphone.

4 MR. FISHER: So I'm Brad Fisher. Earlier it
5 was mentioned that the PPR or I guess for here is the PPR
6 is not an accurate number to use, and what we tried to do
7 is the -- the first budget we put together was last July or
8 August, and we tried to use the best numbers we had at the
9 time. And then we revised the budget again in January, and
10 again, tried to use some updated numbers.

11 So we will agree that the PPR number may not
12 be the accurate actual number that we'll have, but we try
13 to use our best estimates at the time. And what we'd like
14 to say is that if -- if the district has a better number to
15 use, we're glad to revise the budget and sit down and --
16 and figure out what the numbers should be. Can I touch on
17 just a couple of other things?

18 MR. SPARKS: Yes, please.

19 MR. FISHER: Related to the budget one of
20 the things that came up was about facility costs were not
21 accurate, and what we tried to do is put in utility costs,
22 when we did put in utility costs. So we feel that we did
23 address that issue. There was also some question on
24 supplies that may be missing, like toilet paper or soap or
25 something like that. So again, if the district has any



1 ideas or suggestions, we'd be happy to include those.

2 One thing I did want to touch is on the CDE
3 Grant. There -- there is a question about how many
4 computers we would have in year one. The CDE Grant can be
5 a little confusing, because year one of CDE is actually
6 year zero of the school. It's spent before the school
7 actually starts. So it can be a little tricky in the fact
8 that CDE year two is actually year one of the school, and
9 you can start spending those funds in July.

10 So potentially you could have spent all your
11 year one, and year two funds before a single student gets
12 into the school. So that's why it might've looked a little
13 funny when they were trying to count the actual number of
14 computers for year one. So I just wanted to address those.
15 Thank you.

16 UNIDENTIFIED VOICE: So are those your
17 plans?

18 MR. FISHER: What's that?

19 UNIDENTIFIED VOICE: Is that your plan to
20 spend the, what, 400,000 before you even open the door? Is
21 that your -- is that your, yeah, your plan?

22 MR. FISHER: If that -- if that's what it
23 takes, we would. Because a lot of that is based around
24 curriculum, and computers, and the technology. So a lot of
25 that would be spent before a student enters the door.



1 UNIDENTIFIED VOICE: And what if they don't
2 enter the stool -- enter the door?

3 MR. FISHER: The funds either way, whether
4 the students come, are -- are guaranteed to the school, if
5 we get the grant. So if the students don't come, and we
6 have bought something that we don't need, we can still use
7 it in future years.

8 MR. SPARKS: So the way the grant works is
9 it's split into three years, and so it's almost \$600,000
10 over three years. So \$400,000 is not provided in that
11 first year. It's almost an even split. So it's closer to
12 \$200,000 that would be received for year zero, and so those
13 are the funds that would be used before the students are
14 actually there, and that's the way the federal government
15 has designed the grant to work.

16 So, and I apologize. I was so eager to jump
17 into providing something, you know, different than last
18 time I -- I left out the formalities of -- of going over
19 requesting exactly what it is we're here. So I'll do that
20 for the record.

21 So the appellants are requesting the
22 following. Final decision of the Sheridan School Board of
23 Education was contrary are asking you to find the
24 following:

25 That the decision was contrary to the best



1 interest of the pupils, school district, or the community.

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

6 And that's an issue that I would really love
7 for you all to address specifically today, either in one
8 motion or a separate motion, and vote on whether or not you
9 are granting the school permission, and in directing the
10 district to approve the contract for the 2016 school year.

11 And so I don't want to leave that ambiguity
12 out there, because we could get to 120 days out where we've
13 reached the end of our time to negotiate in a contract, and
14 it would be September, but the district could technically
15 say, well your application was initially submitted for
16 opening in the fall of 2015, so well opening day of school
17 has already passed, so sorry. And then we'd have to come
18 back to you all again and ask you to rule on that contract
19 condition.

20 So because that would be a unilateral
21 imposition of a contract that the appellants oppose, this
22 Board has the authority to rule on that. So we are asking
23 you to make it explicit that the school has that ability
24 and the district is, you know, constructed to allow the
25 school to open in 2016.



1 UNIDENTIFIED VOICE: Excuse me.

2 MR. SPARKS: Yes.

3 UNIDENTIFIED VOICE: I'd like you to address
4 the basis for your belief that the -- the -- the Board
5 could change the date of the opening.

6 MADAM CHAIR: And speak up a little. I
7 didn't hear your question.

8 UNIDENTIFIED VOICE: I want him to -- I -- I
9 would like him to address the issue of -- I'm looking for
10 the basis for your argument that we as a State Board can
11 just change the date of your opening.

12 MR. SPARKS: Certainly. So CRS 22-30.5-106
13 Subsection 1, one says in part "Charter school application
14 is a proposed agreement upon which charter school
15 applicant, and the chartering local Board of Education
16 negotiate a charter contract."

17 So the application in itself is not a
18 proposed contract, but is the proposal for the idea of a
19 school. So it doesn't restrict the applicant to only
20 opening within a certain given year, but is the basis for
21 which the contract will be formed.

22 So in -- in most situations you would apply
23 in the year that you want to open. In this situation where
24 the appeals have taken so long, and the process under which
25 a contract has to be reached under statutory requirements



1 puts us in September. There is a true real possibility,
2 likely possibility that we won't have a contract before
3 September, and that's after school opens in Sheridan School
4 District. So we would have to come back to this Board
5 again and start this process over.

6 Presumably we would be arguing that it's a
7 contract condition, and it wouldn't be on the appeal, so
8 we'd be here on a first appeal. So you would rule on that
9 first appeal, remand it back to the district. If they did
10 not acquiesce to your recommendation, we would have to come
11 back again and go for a second appeal. And so this process
12 could be drug out for another year.

13 So the authority is that under the appellate
14 rules for charter schools, the State Board has the ability
15 to rule on a unilateral and position of a contract
16 condition. So if a district tells a charter school this
17 has to be in your -- your contract, and the applicant does
18 not want it, it has the right to appeal, and this Board has
19 the right to rule on that portion of the charter contract.

20 In addition, the Supreme Court has addressed
21 the authority of this Board in the past, and I addressed it
22 more fully with the citations in my brief, but that Supreme
23 Court basically says the State Board has the authority to
24 direct a district, and that would then to open a school.
25 So in this situation, when you get to September, you've



1 gone past the -- past the possibility of opening the
2 school. And so if we don't address this issue, you're not
3 truly really in favor of -- of the charter school, because
4 you're -- you're leaving that legal possibility that the
5 school could never possibly open, because the district has
6 the right to take 30 days to vote on whether, you know, to
7 approve the application, and then another 90 days before
8 the charter contract has to be agreed upon, (inaudible)

9 MADAM CHAIR: Would you be looking at
10 opening this fall or as you did a year from now?

11 MR. SPARKS: No. So the original
12 application was for fall of 2015.

13 MADAM CHAIR: Okay.

14 MR. SPARKS: And, you know, even up to the
15 point when we were here last time, when we're negotiating
16 with the district, we wanted to open in 2015. The district
17 had concerns about, you know, its own budget, its staffing,
18 particularly how late in the game this was going to be.
19 The applicant offered say, hey, you know, you approve us
20 for 2016, we -- we're willing to take that. We'd be
21 willing to open with a smaller school, and just, you know,
22 we want -- we want to know that we're making progress, and
23 if you'll agree to 2016, we'd be happy to do that.

24 At this point it's become a necessity,
25 because the amount of time that's left before school opens



1 in August doesn't give enough time to, you know, both
2 properly open a school, and -- and have it ready for kids
3 on -- on day one, hire, you know, staff, have computers,
4 have equipment, have a facility, but also that legal
5 possibility where we don't have a contract until September
6 and school opens in August.

7 MADAM CHAIR: Okay. Thank you.

8 MR. SPARKS: And then the third request is
9 we would like this Board to -- sorry, I lost my page.
10 Regarding the grant. We would like the Board to pass a
11 motion with instructions, even if they are not completely
12 worked out, but that you are directing CDE to give the
13 grant money to the school, if they can legally do so.

14 So I know there are questions about whether
15 or not under federal law they have that ability, and, you
16 know, I respect that, understand that, but so really what
17 we want is this Board to give instructions to your staff
18 that work at your behest that you want that to happen, so
19 please find a way to do it.

20 MADAM CHAIR: And that would be fairly
21 quickly? That would be the direction that you would want
22 would be for us to direct them to move quickly in that?

23 MR. SPARKS: No, since we're asking for 2016
24 if you're going to rule on -- on that --

25 MADAM CHAIR: (Inaudible).



1 MR. SPARKS: -- you know, it doesn't have
2 to be, you know, this month, tomorrow, you know, by any
3 means. There's a little -- little time for that. It's not
4 an emergency to get those funds for --

5 MADAM CHAIR: I see.

6 MR. SPARKS: -- 2016 opening, but to have
7 that matter settled as quickly as possible would definitely
8 be preferable. And so I know it's outside of your -- your
9 normal course of action within one of these hearings, but
10 it is very much tied together. And the success of this
11 school be greatly improved by having that -- that grant,
12 which was already awarded to it. And unfortunately, you
13 know, and I understand CDE sets policies, but this Board
14 has the ability to overrule those policies. And given the
15 fact that we're in the middle of these appeals, and though
16 it's not that the applicant, you know, was not doing
17 something that it was supposed to be doing or, you know,
18 vigorously pursuing it, we would like you to overrule that
19 standard policy and allow that money to be given to this
20 applicant.

21 UNIDENTIFIED VOICE: Give me a chance to get
22 back to the finances. You, someone told us that there are
23 what, 300, and some odd letters of intent, right? Is that
24 right? Isn't that what you said, 300.

25 UNIDENTIFIED VOICE: That was in our



1 application.

2 UNIDENTIFIED VOICE: The budget that -- that
3 was referred to is the budget, is that the size of the
4 school? The expected size come --

5 UNIDENTIFIED VOICE: We would start with 400
6 students.

7 UNIDENTIFIED VOICE: So you'll -- you'll
8 still be in this next umpteen months you'll be seeking --

9 UNIDENTIFIED VOICE: Additions.

10 UNIDENTIFIED VOICE: -- an additional 100?

11 MR. SPARKS: Absolutely.

12 UNIDENTIFIED VOICE: And do you know the
13 grade, do you know the -- is the -- are the grades coming
14 in the right kind of bunches or do you have umpteen --

15 UNIDENTIFIED VOICE: That I don't know.

16 UNIDENTIFIED VOICE: -- fifth graders and
17 not. Thank you.

18 UNIDENTIFIED VOICE: (Inaudible).

19 UNIDENTIFIED VOICE: When we put that
20 together we kind of had a fatter middle, like two, three,
21 four, and we had kindergarten in fifth, so we would hope
22 (inaudible)

23 UNIDENTIFIED VOICE: So you had -- you're
24 going to have a target for the other grades that you're
25 looking for?



1 UNIDENTIFIED VOICE: Yes (inaudible).

2 UNIDENTIFIED VOICE: Okay. Thank you. I'm
3 sorry, that was a question that came up.

4 MR. SPARKS: No, here. You're free to ask
5 whatever questions you want. So, and regarding those --
6 those budget numbers, and then the issue of drawing from
7 Littleton Academy. So the target at the school, and this
8 applicant group are targeting is the lower socioeconomic
9 students in Englewood, and Sheridan, and, of course, there
10 are some in Littleton as well. But Littleton is a
11 contiguous district. And so legally the charter school can
12 draw from the -- from Littleton Academy to fulfill its
13 obligations for having 50 percent or more come from that,
14 the authorizing district or contiguous district.

15 When with Littleton Academy's significant
16 waitlist it's just an example of the number of students in
17 the area that are interested in charter schools. And just
18 because they're on the application for Littleton, doesn't
19 mean that they actually live in Littleton. Littleton is
20 the only charter school in the TriCity area. There is no
21 charter school in Sheridan. There is no charter school in
22 Englewood, and Sheridan has been on, you know, very poor
23 academic performance in the last many years, and is
24 currently coming up for a review on whether or not, you
25 know, this Board is going to reorganize it.



1 So it would make sense for, you know,
2 students from within the TriCity area, including Englewood,
3 and Sheridan to be on the waitlist for that school. And as
4 we discussed in the last appeal, these districts have
5 nearly 25 percent of their students leaving the district to
6 go into other districts.

7 So while the free and reduced numbers for
8 Littleton that were shown on the slide earlier are not --
9 are much -- much less than what the district has, the
10 target of this applicant group is to serve those students
11 who are on free -- had free, and qualify for a free and
12 reduced lunch. So that is the intent.

13 So, you know, that pie chart skews really,
14 you know, who this school is targeting. And I know there
15 were questions at the end. Yes.

16 UNIDENTIFIED VOICE: I just wanted to ask,
17 so who is going to have the authority, Sheridan or
18 Englewood? Englewood you already have. So why go -- why
19 then Sheridan? You'll have an -- an authorizing school
20 district, so you got what you wanted. A school. Are you
21 going to open two schools?

22 MR. SPARKS: Well, as -- as I indicated at
23 the beginning, the Sheridan superintendent sat next to me
24 today, and the superintendent from Englewood did not. So -
25 -



1 UNIDENTIFIED VOICE: Well --

2 MR. SPARKS: -- the relationship between the
3 districts at this point is far more positive with the
4 administration of Sheridan, and the applicant group feels a
5 lot more positive that I could easily work with the
6 Sheridan administration for a successful school. The
7 superintendent of Englewood is leaving and actually going
8 to Littleton, so that, you know, will be a new opportunity
9 to start fresh in Englewood, which is great. But the --
10 the issue of the contract is still huge. We don't have a
11 contract.

12 So at any point, you know, in that
13 negotiations, we can't come to an agreement, we're back
14 before the State Board again. So by having two options, we
15 hope to avoid having to come back and take up your time
16 again.

17 So if we can't reach an agreement with one
18 district on our contract, but can with another, that saves,
19 you know, the trips and all of our time. So that it's
20 really about keeping our options open at this point.

21 UNIDENTIFIED VOICE: I'm gonna ask one more
22 time in a different context here.

23 MR. SPARKS: Absolutely.

24 UNIDENTIFIED VOICE: Can you give some
25 examples of the -- of specific outreach activity, because



1 my memory serves me right, the 300 number that you're
2 indicating now of interest or letters or submissions is
3 sort of news to me. Now, I -- I am mindful of the goals
4 and the percent increase to reach capacity goals by a
5 certain point in the year that had been adjusted somewhat
6 to fit this. But I -- I -- what -- what kinds of
7 constructive affirmative outreach have you been able to do
8 with the community in order to educate them, inform them,
9 and aware of your school, and what you hope to have?

10 MR. SPARKS: Yeah, so I'm going to turn that
11 over to Mr. Gillit primarily. But what I do know is that
12 the increase of support at the Sheridan Board meeting for
13 the denial the second time was much greater than it was the
14 first time in support of the charter school. So as this
15 process goes on, and more people hear about it, you know,
16 that support is growing.

17 But, Mr. Gillit can you speak to some of
18 the outreach that has been done, and what you, you know,
19 plan to do going forward?

20 MR. GILLIT: Thank you. We have done
21 numerous different outreach (inaudible), which is a big
22 massive event at one of Englewood's largest parks. We had
23 a number, a large number of applicants at that meeting, at
24 that event. Just about every event we go to we have
25 letters of intent come in. We have families that want to



1 be involved, but they want to support, but or don't want to
2 come to the meetings, because they don't want to be singled
3 out.

4 We've had a lot of interest from the
5 community contacting us as well. Say, you know, we --
6 we're -- we're interested in this, but we, you know, it's -
7 - it's so nebulous for them right now. They -- there's
8 nothing really to hold onto, and they're -- a lot of -- a
9 lot that would want to come in aren't even sure that it
10 will be there. So as soon as we can solidify this is going
11 to be, then we can actually go out and say, this is -- we -
12 - we are now going to write a contract now that, you know,
13 you can put a letter of intent in and -- and work with
14 that.

15 We are going to continue to do those events
16 where we're going to continue to do it like we did last
17 year in the Sheridan days event. I believe it's Sheridan
18 days, I think that's what it's called. Every -- every time
19 that there's a public event, we're out with -- with the
20 booth or with some folks trying to make sure that people
21 are educated about what's coming on. That kind of got
22 halted obviously, you know, late spring, because with --
23 with the denials no one was sure what we were going to do,
24 so it's hard to continue.

25 And I heard the timer.



1 UNIDENTIFIED VOICE: Yeah, you heard it.

2 UNIDENTIFIED VOICE: Thank you.

3 UNIDENTIFIED VOICE: Are we ready?

4 MADAM CHAIR: Yes, go ahead.

5 UNIDENTIFIED VOICE: Thanks.

6 UNIDENTIFIED VOICE: Thank you, and Madam
7 Chair, just so that the record is clear, I will also use 20
8 minutes for my opening and reserve 10.

9 MADAM CHAIR: Oh, thank you.

10 UNIDENTIFIED VOICE: Madam Chair, Members of
11 the Board, the issue before you here today is whether the
12 local district's Board of Education's decision to deny
13 TriCity's charter application when following the Charter
14 School Acts requirements with an application that is a high
15 risk is contrary to the best interests of the district,
16 it's pupils, and its community.

17 The issue this afternoon is now in the
18 context of having you decide this after having already
19 ordered one school district to approve the application for
20 this same charter school. The district you've already
21 ordered to approve the application is the one that
22 actually has potential buildings within its boundaries to
23 house this facility. As you will hear more, there are no
24 facilities anywhere in Sheridan to house the vision of this
25 TriCity Academy.



1 On the issue before you here today, we do
2 ask that you trust the careful, deliberate, and well
3 reasoned decision of the Sheridan Board that has been
4 objective in this process, and is relied upon numerous
5 outside experts, as it's reviewed it's application,
6 including the Charter School Institute, and its state and
7 national experts.

8 We ask that you trust this process that
9 denied the application based upon among other things CSIs
10 high risk assessment. Again, before turning to the legal
11 requirement process before you, it's imperative to touch
12 upon your obligations here today. It is that Colorado
13 Supreme Court decision booth that teaches us that this
14 Board substitutes it's judgment for that of the local
15 Board.

16 In doing so, the Board concomitantly must
17 also subject itself to the same fiduciary obligations owed
18 to the taxpayers, this afternoon now, Sheridan's taxpayers.
19 For to hold otherwise would sever and isolate this Board
20 from any constraints imposed by the virtue of public
21 office. And by the provision of Section 2418 103 CRS,
22 which states that the holding of public office is a public
23 trust. You are held to the same fiduciary standards as a
24 private fiduciary owes with respect to property and assets
25 that are held for the benefit of others.



1 While we are here in front of you, and you
2 heard from the superintendent in January, you heard the
3 more particulars about the Sheridan district. At this
4 time. I remind you that this is the Sheridan district. I
5 remind you that Fort Logan Northgate is a performance
6 school. I remind you that Sheridan Elementary is an
7 improvement school, less than two points away from being a
8 performance school. Those are the students that this
9 applicant is targeting. These are not students who are in
10 an a priority improvement or turnaround status. These are
11 the schools that Sheridan has again, performance, and less
12 than two from performance -- from performance and
13 improvement. Again, I ask you to look at the merits of
14 this application, not charters in general, not applications
15 in general, but the merits of this application.

16 Sheridan also partnered with CSI in this
17 process when it came back after the hearing from the State
18 Board, the concerns that it had, as well as what TriCity
19 had said regarding the three outside experts that were used
20 in the fall. The MOU with -- with CSI is to provide
21 technical assistance, not only in the review that happened
22 in January, but also going forward.

23 With this review Sheridan knew that it would
24 be subject to whatever the objective process that CSI went
25 through for its recommendation. It could have been for a



1 low risk with an approval support, however, it ultimately
2 it was a high risk, and the district's local Board followed
3 that.

4 The district also reached out to the Charter
5 School League. While the league cannot comment,
6 particularly on the merits of this application, Nora Flood,
7 President of the league did direct me to the website.

8 UNIDENTIFIED VOICE: Madam Chair?

9 MADAM CHAIR: Yes.

10 UNIDENTIFIED VOICE: It's my recommendation
11 that this information that council's presenting is outside
12 the scope of the supplemental records supplied.

13 MADAM CHAIR: Okay. Is that okay? Is that
14 --

15 UNIDENTIFIED VOICE: Do you think that means
16 she should move to another subject?

17 MADAM CHAIR: Do you want me to rule -- to
18 move on? Yeah. Okay. Move on.

19 UNIDENTIFIED VOICE: That's your
20 (inaudible), Your Honor.

21 UNIDENTIFIED VOICE: Yes, Madam Chair,
22 (inaudible). I'm so used to saying Your Honor.

23 MADAM CHAIR: I wasn't -- I wasn't -- I
24 wasn't paying attention.

25 UNIDENTIFIED VOICE: Yeah.



1 MADAM CHAIR: You caught me by surprise.
2 All right.

3 UNIDENTIFIED VOICE: Along with CSI's
4 objective review, there are other documents out there in
5 Colorado that tell you what, and provide clear guidance on
6 what developing groups should do in order to have a
7 successful application, as well as be successful in its
8 startup. One of these happens to be the League's Quality
9 Standards for Developing Charter Schools.

10 Another one that is out there for
11 consideration as this district, as CSI, and others look at
12 charter schools, look at finding quality charter schools is
13 the National Association of Charter School Authorizers,
14 Principles and Standards for Quality Charter School
15 Authorizing. These standards were promulgated by this
16 State Board of Education in 2012. These standards tell us
17 in general that having an application review process by
18 outside experts is best practice. The district did this
19 best practice.

20 As the district did this, so did more than
21 35 other reviewers from other school districts where this
22 applicant, and Delta schools submitted the same
23 application, cut and pasted the same quotes from parents,
24 cut and pasted Aurora Public School data into a Sheridan
25 Charter School application. Thirty-five other reviewers



1 have denied this application.

2 UNIDENTIFIED VOICE: Excuse me, 45, are you
3 saying this same applications got into 45 different school
4 districts?

5 UNIDENTIFIED VOICE: No, this same
6 application has gone to four school districts, Littleton,
7 Sheridan, Englewood, and Aurora, and the same data has been
8 put into those. And when you combine the internal, and
9 then the external reviewers for all of those, that's where
10 35 plus reviewers have said that this application lacks
11 merits.

12 UNIDENTIFIED VOICE: Okay.

13 UNIDENTIFIED VOICE: And these 35 plus
14 reviewers for these different districts and for CSI
15 represents 20 percent of your charter sector here in
16 Colorado. Twenty percent of successful charter schools
17 that are in operation. An additional letter support has
18 been submitted by Nexa (ph), again, just to the process
19 that has been used saying that it is sound.

20 Turning to the merits of the application
21 itself. The district has followed state statute as well as
22 State Board orders. Following the hearing in January, the
23 State Board looked at the instructions, met with TriCity
24 and had an exchange, a written exchange and verbal exchange
25 of information. This application information was then



1 supplemented, and that is what was reconsidered by the
2 Board at its February 3rd hearing. This is consistent with
3 how the Charter School Act, and its application structure,
4 and format is set up.

5 MADAM CHAIR: So had they made significant
6 changes when you reconsidered?

7 UNIDENTIFIED VOICE: In their
8 reconsideration, following the meetings and the verbal and
9 written exchange, on the first two instructions there was
10 agreement that had been reached fully on one and partially
11 on the other. And then on the last two, three, and four,
12 there had not been agreement reached upon those. However,
13 even though agreement had not been reached, this Board was
14 objective in looking at all of the information, and
15 reconsidering it in its totality before it made its
16 decision.

17 MADAM CHAIR: Okay.

18 UNIDENTIFIED VOICE: Even with the
19 supplemented application materials that have now been
20 included in a reconsideration, and that's what this was on
21 February 3rd, was a reconsideration of the entire
22 application, it is still found by this Board to be not in
23 the best interest of the students, district, or community.

24 When we look overall at this application and
25 the assessment that CSI has done, CSI began in 2012 using



1 the visual risk indicator. Since that time all schools
2 that were rated as a low risk in green on the slide, 27.3
3 percent, of all open successfully. Those that were rated
4 moderate risk, those in yellow on the slide, 45.4 percent,
5 less than half have opened successfully. Those in red
6 then, the 27.3 percent have been rated as high risk, same
7 as this applicant here today, and none of those has opened
8 successfully.

9 When we look at the statutory standards of
10 the best interest of the students, people, and community,
11 it is not clear who is operating the school or who the
12 district will be actually giving the charter to. As
13 demonstrated by the inability of TriCity was the applicant
14 and one of the appellant's to independently design the
15 program, write it's application, we heard today that two of
16 non TriCity are the ones who wrote the budget, Luke and
17 Brad, who are consultants.

18 TriCity's inability to handle or even
19 participate in the negotiations process that was held in
20 January or to work to secure community support and
21 partnerships, TriCity does not understand what is required
22 to be an autonomous charter school.

23 It's not in the district's best interest at
24 this time to devote the resources required to address these
25 significant and high risk concerns in order to open up a



1 school of poor conceptualization. Nor is it in the
2 district's best interest to ultimately take responsibility
3 for the schools' outcomes and have a non-autonomous charter
4 school.

5 In terms of the students that the -- that
6 the applicant desires to serve, they are not sure who they
7 are. They heavily reply -- heavily relied upon Littleton
8 Academy, and their waitlist as evidence of support.
9 However, the single digit student demographics at Littleton
10 Academy, 6 percent free and reduced lunch, 6 percent
11 Latino, does not compare to the district's free and reduced
12 lunch, and student demographics. The slide up there shows
13 the stark contrast between Sheridan, TriCity's proposed,
14 and the targeted students coming from that population.

15 UNIDENTIFIED VOICE: Excuse me.

16 UNIDENTIFIED VOICE: Yes.

17 UNIDENTIFIED VOICE: So is it your position
18 that the free and reduced lunch population, the higher free
19 and reduced lunch population, and Sheridan School District
20 would not be interested in a charter school?

21 UNIDENTIFIED VOICE: In terms of the
22 community piece and their interest in that, I can let Mr.
23 Clough address that.

24 UNIDENTIFIED VOICE: (Inaudible).

25 UNIDENTIFIED VOICE: However, there's also a



1 bigger budget piece, and other information that I can let
2 Ethan or Kristen address.

3 UNIDENTIFIED VOICE: Thank you. We're --
4 we're not sure, and -- and that's the problem. We've asked
5 several times to get the list of students and some more of
6 the information. We're going only on what -- what TriCity,
7 and Delta Group has told us is that the targeted --the
8 group. And that, of course, the best information is that
9 we keep getting is this 1,869 students and I -- if I got
10 the number wrong, I apologize, but I'll be in the ballpark
11 that are on waitlists at Littleton Academy.

12 We have -- we've asked several times for the
13 list of students. We don't need names, but it would be
14 very helpful. We don't know how many of those students are
15 actually from Sheridan or from our schools. We're not sure
16 how many of those students are from Englewood, so we're --
17 we're kind of flying in the dark, so sometimes we, when
18 we're looking at this application it does appear like
19 there's a real interest in serving Sheridan students, and
20 sometimes there's a real interest in serving Littleton
21 students.

22 And that's one of the issues that we have
23 that makes our support for the application very difficult,
24 is not really having all the information that we are really
25 required to have in order to make a good solid decision.



1 That list would have been so helpful for us to analyze just
2 who we were serving. So the answer is we don't know.

3 UNIDENTIFIED VOICE: And I believe Ethan,
4 did you have something on the second part of that?

5 MR. HEMMING: Sure. I think if I understood
6 the question correctly, when we see applications like this
7 within consistencies across the Board, that does spark our
8 -- our concern in terms of whether or not the data
9 presented in a community meeting or in this version of the
10 application's consistent with who the program is designed
11 for, which takes us back to the core knowledge concerns
12 that we raised earlier.

13 So the research basis for the alignment of
14 the curriculum, and the program while definitely is not
15 core knowledge, it's a variation of that. The research
16 then provided in terms of the demographics they're
17 targeting was not consistent, as well as the research that
18 supported what they were attempting to do.

19 The research specifically cited studies that
20 were high school focus, and this is a KA program, as well
21 as the research underneath the blended component of this
22 was not substantially verified. It was an unpublished PhD
23 dissertation. So what I think our perspective, as we look
24 at this subjectively, we look for inconsistencies, and we
25 look for things that don't add up, and those were examples



1 of things we didn't feel added up.

2 UNIDENTIFIED VOICE: I just feel that that
3 pie chart is -- is not clear. It's somewhat deceptive,
4 because you're saying that you don't know, and you're
5 trying to get clarity from the entity that submitting the
6 application, than to say the targeted students do some
7 small, you know, sliver of free and reduced lunch. It
8 doesn't strike me as being accurate. I don't think it --

9 UNIDENTIFIED VOICE: And I -- I - I
10 understand where you're coming from, and it's just a
11 process of trying to pull that information from TriCity,
12 and we've not yet gotten that. And what you're looking at
13 is what the district, and its Board has had all the way up
14 to its February 3rd meeting when it reconsidered.

15 UNIDENTIFIED VOICE: I look forward to them
16 addressing that. Thank you.

17 UNIDENTIFIED VOICE: You have something else
18 to add?

19 UNIDENTIFIED VOICE: Only to add that their
20 appeal brief actually sites Littleton Academy's waitlist as
21 their evidence of support, which is why we were looking at
22 them.

23 UNIDENTIFIED VOICE: Additionally, I would
24 add that the community support at the hearings, both in
25 October, the first time, as well as on February 4rd, the



1 community that came out to support or to come out to
2 address this issue came out to support the Board, and the
3 Board's decision, and the objectivity that the Board took
4 going through this process.

5 I would also talk that there is no facility
6 option in Sheridan during the meetings that we had with
7 TriCity. All of the options that were talked about were in
8 different districts. One is in Denver, the Westwood
9 College, their facility. The others are in Englewood. The
10 ones that you've already approved this morning. Yes,
11 Sheridan is a small community, and TriCity says that in its
12 reply brief.

13 Had TriCity come to this community and --
14 and done their homework before, they would know that
15 Sheridan is only 2.3 square miles. They would know what
16 the Sheridan community looks like, and what the facilities
17 available are there. They have conceded previously that
18 there are no facilities in Sheridan, and they're looking to
19 locate in Denver or in Englewood.

20 You had filed in this the Colorado
21 Association of School Boards. They support local control
22 of Sheridan to authorize a charter school to locate within
23 its own boundaries, not outside its boundaries in Denver or
24 in Englewood.

25 Again, TriCity in this case has refused to



1 provide and follow the statute to provide the aggregate
2 data that has been requested by the Sheridan district. It
3 was requested in October and still not provided, even
4 though the statute says shall.

5 Pulling it from page 13 of the application
6 that was submitted, that is the record that is on appeal
7 here, TriCity's first goal as shown on the slide sets forth
8 that the goal is for only 90 percent of the students to
9 make one year's growth in one year's time in reading, math,
10 science, and writing.

11 Other goals set forth in this application
12 are to reduce the achievement gap by only 1 percent each
13 year. Closing the achievement gap for reading will then
14 take seven years. For math it will take more than a
15 decade. This is simply not acceptable for any student, let
16 alone and at risk student. In its totality this
17 application simply is not in the best interest of students.

18 The application team with assistance of the
19 second appellant, Delta, is truly a group of individuals
20 interested in incubating a charter school. This was first
21 evidenced in charter -- in TriCity's charter application,
22 which quote, began with what team members wanted in a new
23 charter school, end quote. It is not what the parents,
24 pupils, or the community in Sheridan wanted for its
25 educational opportunities in this district.



1 All of the outside consultants, including
2 those from CSI, ten CSI consultants, some of them national
3 on the national level identified this lack of community
4 partnership and parental involvement here in Sheridan.
5 This is a failed business model for an incubating school.
6 It's a failed business model that's not in Sheridan's best
7 interest for its community, its pupils, or the district.

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

15 Again, this application has been vetted by
16 more than 35 reviewers. Reviewers that represent 20
17 percent of the successful charter school across the state
18 of Colorado, and they have all flagged this as high risk,
19 in the red. Following the charter school --

20 MADAM CHAIR: I'm sorry. Who was it that
21 flagged it?

22 UNIDENTIFIED VOICE: It's -- this is CSI's
23 visual that they have.

24 MADAM CHAIR: Okay. I -- I just didn't
25 catch that.



1 UNIDENTIFIED VOICE: Yes, and the 35 other
2 reviewers outside consultants, as well as these experts in
3 four different districts have come to this conclusion this
4 is not a quality application. They should start over and
5 not use this as a basis to open up a school. It's not in
6 the best interest of the district, the community, or its
7 students.

8 Following the charter schools application
9 requirements, and the best practices of CSI, this
10 application was vetted as not in the best interest of the
11 students district or community to approve such a high risk
12 application. (Inaudible) in for February when the Board
13 objectively looked at all of this information and
14 reconsidered the application --

15 MADAM CHAIR: Your time is up.

16 UNIDENTIFIED VOICE: -- they denied the
17 application. Thank you.

18 MADAM CHAIR: Thank you. Mr. Sparks, would
19 you like to begin by addressing that statement that this is
20 not a quality application?

21 MR. SPARKS: Absolutely. So I'm -- I'm
22 actually shocked and -- and offended that the district is
23 continuing to say that this application was submitted to
24 four different districts, reviewed by 35 different
25 reviewers when we've addressed this in the previous



1 hearing, in previous briefs, and -- and it's a lie.

2 The application was never submitted to
3 Aurora. The application was submitted to Littleton and
4 withdrawn before it was ever reviewed. So to say that all
5 -- that these other districts reviewed this application is
6 untrue. And so for the district to still be claiming that
7 at this point is very disingenuous.

8 So this is a quality application, and the
9 CDE staff reviewed it, and granted nearly \$600,000 in a
10 startup grant. So you have two state agencies or a
11 division of this state agency, and another that have given
12 contradictory opinions as to whether or not this was a
13 charter -- a quality application.

14 And something I failed to bring up in the
15 last hearing is that the CSI administration, as far as
16 we're aware, has no experience ever actually running a
17 charter school. So the team that has put this application
18 together currently is running successful charter schools.
19 Currently two of the team members are running the top --
20 two of the top ten high schools in the state, so quality is
21 certainly other concern to these -- to this team. And so
22 they would not get behind an application that was not
23 quality.

24 If there are shortcomings, the team is happy
25 to address them. And actually, Mr. McQueen, the



1 prospective principal does want to address some of those
2 issues, but also, it was brought up in the last year
3 hearing, and again here about who is actually going to run
4 this school. And I am again baffled that the district is
5 still harping on this issue when it's been briefed, it's
6 been discussed before this Board, who that -- that is.

7 Delta Schools is not going to run this, and
8 it's in writing, we've said it over and over. I don't know
9 if we need to etch it in stone for them to understand, but
10 Mr. McQueen is going to explain from the principal role who
11 in his perspective is going to run this school.

12 MR. MCQUEEN: Thank you, Madam Chair
13 (inaudible) Board. I was approached by the TriCity Academy
14 Board to review their application and consider the
15 opportunity of becoming their principal. Without a charter
16 I can't be the named principal, but I -- I'm sure you're
17 aware of that.

18 So as I looked at this, I did see a vested
19 interest in a group of people making a difference for kids.
20 They were using curriculum scope and sequence and the core
21 knowledge sequence that has proven to be successful with
22 this demographic. It -- it -- it has been successful, not
23 only with this socioeconomic demographic and population of
24 minority status, but also in the geographic area with
25 regard to students that are very close to this area,



1 Colorado students in the Littleton.

2 I have -- this is my 21st year in education.
3 I had 11 years in Denver public schools, so I'm familiar
4 with the demographic. Similar to this, I've been a -- a
5 teacher, a technology coordinator, assistant principal,
6 principal, and now I'm in a role as a director in a charter
7 school, and I was actually brought in to do much of what
8 you see in this application, which was to take Edie
9 Hirsch's (ph) core knowledge scope, and sequence model, and
10 update it. Update it so that the students and the teachers
11 are exposed to the ad -- the improvements that have come
12 along with educational and instructional technology, and
13 that's where the basis of this particular application was
14 founded.

15 So I was excited about the opportunity to
16 start working with this Board, to work in tandem with these
17 districts to help the community feel like they have a voice
18 with their students. Because of my experience now with
19 charter schools of the last two years has proven to me that
20 parents do want an active role in their children's
21 education, and the charter movement has really made that
22 something that I've grown to find a very effective.

23 So one of the things that Dustin had asked
24 me to speak to specifically is that -- that blended
25 learning model.



1 In the last decade educational technology
2 has come a long way with regard to formative assessment and
3 helping teachers to be able to make decisions around gaps
4 in areas of strength for students. This isn't a model that
5 they're proposing that would replace the teacher, but it
6 augments the teachings. It does. So right now at the
7 Platte River Academy, since I've been there, we've been
8 able to take a very high performing school, and -- and
9 really focused on growth, which is what I think needs to
10 happen in this particular school.

11 That proficiency score that takes time to
12 actually wrought -- raise is something that, you know, will
13 take time, but we can immediately start to see the effects
14 of growth. When we do best practice instruction, we make
15 data driven instructional decisions, and we make a
16 difference for these kids, and their families. So I do
17 find -- feel that core knowledge does blend well with this
18 model, and it's just an updated version of that.

19 Some other things that I've heard from
20 yourselves, and as I've read the briefs before coming in
21 today, I see a need to really integrate, and engage the
22 community, and that's something that I have a track record
23 of doing. I would want to immediately start to really draw
24 in all the stakeholders that are involved in this. This is
25 about kids. This is not about the school. This isn't



1 about creating a building under my leadership. It's about
2 doing what's best for kids, and working together in that
3 capacity.

4 Another thing that I was asked to address
5 was the model that this application was designed to
6 implement, which is an autonomous charter school. I don't
7 see anything in the application that talks about a charter
8 management organization, and that's not what I have agreed
9 to come into.

10 What I've agreed to come into his being the
11 employee of the Board, once it's an acting Board. And then
12 all of the employees of the building would be under my
13 direct supervision. I would hire and manage those.
14 Obviously, staying in compliance with all state laws and
15 regulations. Is there any other --

16 MR. SPARKS: Thank you. How much time?

17 UNIDENTIFIED VOICE: Three minutes.

18 MR. SPARKS: Thank you. Great. So to
19 address the Littleton Academy list, again, TCA does not
20 have, does not own, does not have access to the information
21 on the TCA list, on the Littleton Academy list. We asked
22 for it. What we were given was we ran our lottery. The
23 kids that were, you know, on the list, the ones that got
24 accepted for next year. Now, here's our list of remaining
25 students and it was near that 1,800 number. That's what we



1 have. That's what we provided.

2 And then on -- on the data, the district did
3 not have an application process in place. They don't have
4 experience with authorizing a charter school or even
5 reviewing an charter application. So it was really up to
6 the applicant team to decide what information they were
7 going to gather and put in their application. They did not
8 request information from students who were interested in
9 attending the school. What school are you currently
10 attending? They don't have it. So it's not that we're
11 withholding the information, we just don't have it. So
12 it's no refusal on our part to provide something we have.
13 We just don't have it.

14 So regarding the facility, as already
15 discussed, it's a very small district. And absolutely
16 there's a struggle in finding a facility, and it's not that
17 the applicant team did not do their research in
18 understanding the district. They very much did their
19 research. That's why there was multiple charter school
20 applications.

21 They were dealing with an extremely small
22 school district, and knew that if they wanted to increase
23 their chance of both getting approved and finding a
24 facility, they needed to apply to multiple districts. It
25 was because they did their research that they submitted



1 more than one application.

2 So absolutely difficult to find a facility
3 in Sheridan. The district had a facility that it was no
4 longer using. It was requested early on in the process.
5 Legally they don't have to hold it for a charter school to
6 use in the future, so instead they sold the facility. It's
7 been demolished, and homes are being built there.

8 Without that contract in place, though, we
9 can't get under contract or, you know, take out a lease for
10 anything. So anything that comes on the market, comes and
11 goes, and, you know, as we all know, thankfully now we do
12 have a -- a hot real estate market in the metro area. And
13 so without that contract, it's impossible to find a
14 facility.

15 So going back to Ms. Reester's idea of a
16 fiduciary duty at the district has, and that you all are
17 substituting your judgment for that district. This is a
18 failing school district. They've been before you multiple
19 times. They're currently suing you, and you're being asked
20 to decide whether or not you're going to shut down this
21 district here in a short few months.

22 So we're before you, say, here's an
23 alternative. All right, thank you.

24 MADAM CHAIR: (Inaudible). Very well.

25 UNIDENTIFIED VOICE: Madam Chair.



1 MADAM CHAIR: Yes, go ahead.

2 UNIDENTIFIED VOICE: Thank you. In order to
3 have the best odds at having a successful application, and
4 a successful school in Sheridan --

5 MADAM CHAIR: The mic is not coming through
6 real clear.

7 UNIDENTIFIED VOICE: The way to get a
8 successful application and startup process for a school in
9 Sheridan, a the district that is before you today, is not
10 to submit applications to several different districts. It
11 is to come to this district, and look at this community,
12 and its students, and its population. Tailor the
13 application to a small district, to the facilities that may
14 be available for you to house that vision and school in
15 this district in Sheridan. The applicant did not do this.

16 It's a vision as grandiose. It's a vision
17 did go for operating and incubating many charter schools in
18 different districts. When CSI looked at this application,
19 they were the ones who also actually had -- I will have
20 Kristen address how some of their experts realize that this
21 same application that had the same numbers from Aurora on
22 the student data, that had same -- the same type of --
23 typographical errors in it, is the same application that
24 was submitted by TriCity to three schools as well as to
25 Aurora. Kristen.



1 MS. SLOPA: Sure. So we did a comparison, a
2 Word document comparison, and they were word for word
3 identical across all of the applications.

4 UNIDENTIFIED VOICE: In terms of the public
5 record that the district believes the Littleton Academy
6 waitlist is, TriCity sat in the meeting, and said, "You may
7 go Cora it. You may go ask for that public record and get
8 it." They refused to get that information, just as they
9 refused to get the statutorily required aggregate
10 enrollment data when they were asked for it, which the
11 district is allowed to ask for it. Whether there's an
12 application process that's already set forth in writing
13 that the district has done, the statute allows when it is
14 requested for that -- that information to be provided. It
15 simply was not.

16 In terms of the building in Sheridan that
17 was just referenced, okay. This is a building that in
18 2010, the district received its best grant award. In 2010
19 the district had no idea that in 2014 it would receive a
20 charter application from somebody who may now want to use
21 that facility. Under the best grant qualifications and
22 requirements, that facility must come down now that the
23 Fort Logan Northgate School has been constructed. The
24 building simply does not exist for this application or for
25 this applicant. Even if the district decided that it could



1 give it, it cannot.

2 UNIDENTIFIED VOICE: Excuse me.

3 UNIDENTIFIED VOICE: Yes.

4 UNIDENTIFIED VOICE: You're saying that the
5 best organization requires that it be raised?

6 UNIDENTIFIED VOICE: As part of the best
7 grant, I can let Mr. Clough explain how the what goes up
8 and comes down.

9 MR. CLOUGH: What -- What is limited by the
10 best is when you put an application you are only allowed to
11 keep so many square foot per students On the books. And in
12 our best grant it was important when we built the school we
13 were way over. Best is really about building wonderful
14 schools. We have a beautiful school, but they're also
15 about building really efficient schools too. So that's why
16 the amount of -- OF square footage is limited per -- per
17 students. And -- and the Fort Logan campus, and the Early
18 Childhood campus we have raised two schools as part of our
19 facility plan and part of that best project.

20 UNIDENTIFIED VOICE: Okay. And so you're
21 telling me that if best knew that a charter wanted to go in
22 there, they'd still -- they'd say, sorry, you still have to
23 destroy that property?

24 MR. CLOUGH: I -- I -- I think that's a
25 hypothetical question. I don't -- I don't know what best



1 would do because we were -- this was all done prior to --

2 UNIDENTIFIED VOICE: Right.

3 MR. CLOUGH: -- excuse -- it was prior to
4 that -- to even the request before we even knew that we
5 would have a charter. I do, and also state that that --
6 that land has been sold to Habitat for Humanity, and they
7 will be putting 62 homes in -- in the Sheridan community.
8 So the arrangement to sell that, we knew that we're a
9 landlocked community. There has not been a subdivision
10 come into Sheridan for some time. And -- and we knew that
11 we had a chance as part of Sharon's renovation to -- to
12 help and bring families in. So that has been the plan
13 since -- the facilities plan in 2009.

14 I do want to clear up one thing. The
15 facility plan was in 2010, and the best was 2011, not 2010.

16 UNIDENTIFIED VOICE: The prospective
17 principal for TriCity, whom we have met for the first time
18 today, mentioned something about the charter school
19 movement, and I'd like to ask Ethan Hemming to address
20 that, please.

21 MR. HEMMING: Thank you. I think it's a
22 really important point. And when you talk about CSI's role
23 in these kind of proceedings, we start with a profound
24 appreciation and respect for what the charter sector has
25 done in Colorado. Your data that was published last year



1 demonstrates conclusively that charter schools perform
2 (inaudible) seven to nine percent.

3 So it is with that kind of respect and
4 concern that we approach a high quality gate upfront. You
5 don't maintain that kind of performance with high risk
6 applications in our opinion. And I would like to speak to
7 Mr. Sparks comments about the authorizing staff at CSI.

8 I think there's a misunderstanding.
9 Authorizers don't run charter schools. Now, maybe TriCity
10 does not understand that, but that's the fact. And I think
11 if you want to look at TSI's efficacy and outcomes, look at
12 our portfolio. The schools that we (inaudible) and
13 increased their percentages on the DPF by eight percent in
14 two years. So those are two important points. The most
15 important point is the quality of the sector.

16 UNIDENTIFIED VOICE: Today we are asking the
17 State Board to trust in the process that the district has
18 done that has resulted in the denial by this local Board
19 based upon a high risk assessment of this application. We
20 ask that you deny it as well, and we ask that you not
21 compel this district to authorize a charter school that
22 would be located elsewhere in Denver or Englewood, and in
23 particular where you've already ordered another school
24 district, Englewood, the one who has the facilities that
25 have been looked at earlier today.



1 I have no further information for you. If
2 you have any more questions, please of Mr. Clough or CSI,
3 we'd be happy to answer that.

4 MADAM CHAIR: Thank you.

5 UNIDENTIFIED VOICE: Thank you.

6 MADAM CHAIR: That concludes the oral
7 argument in this appeal. The Board will now deliberate and
8 reach a decision. Is there any discussion or do you want
9 to go --

10 UNIDENTIFIED VOICE: Madam Chair. Just a
11 few comments before we -- before the Board deliberates.

12 MADAM CHAIR: Okay. Great.

13 UNIDENTIFIED VOICE: TriCity Academy has
14 asked that the State Board issue a ruling requiring or
15 ordering that the school be opened in 2016. And I wanted
16 to acknowledge that under the Booth Case, which is a
17 Colorado Supreme Court case, and current state statute that
18 the State Board must, if it does -- if it does choose to --
19 I don't know, I should say remand to the local Board, it
20 must order that the Carter -- charter school is approved.
21 Not that a -- not that the start date should be opened at a
22 particular time. So state statute, and law says that you
23 have to just order the approval of a contract, not the
24 start date.

25 MADAM CHAIR: So we can approve it or we can



1 remand it?

2 UNIDENTIFIED VOICE: Correct. Uphold the
3 local Board's decision or remand. Thanks.

4 MADAM CHAIR: Okay. Steve.

5 MR. DURHAM: Thank you, Madam Chair. So
6 then if we were to remand this for approval, if it would
7 not be considered to be in good faith on the part of the
8 districts if they were to approve a start date that was
9 impossible to meet, would that be a fair statement?

10 UNIDENTIFIED VOICE: I'm not sure how that
11 would go into the contract negotiations. However, your
12 standard for -- I've just wanting to make sure that you are
13 all aware of your legal standard. It is obviously up to
14 the parties to address an opening start date, but I can't -
15 - but the State Board can't order a particular start date.

16 MR. DURHAM: Thank you.

17 MADAM CHAIR: Any other comments,
18 discussion? Pam, you got a -- you got a frown on your
19 face?

20 MS. MAZANEC: Not yet.

21 MADAM CHAIR: Not yet.

22 UNIDENTIFIED VOICE: Debora has one.

23 MADAM CHAIR: Angelica? Deb?

24 MS. SCHEFFEL: Is this the case then that we
25 would have a motion to remand this to the district or not,



1 and then there would be two other motions regarding the
2 start date and the use of the startup funds? In other
3 words, the district is asking for us to rule on that one
4 way or another.

5 MADAM CHAIR: The starter phase?

6 MS. SCHEFFEL: The start date being in '16
7 or not, because they can't start in 2015.

8 MADAM CHAIR: Oh, I knew that, but I thought
9 it would -- I -- I guess I assumed it would be '20. If we
10 -- if we approved it, it would be 2016.

11 MS. SCHEFFEL: Well, I think that what
12 they're saying is we need to be explicit on the start date
13 of the starter, if we --

14 UNIDENTIFIED VOICE: And also on the startup
15 funds in their ability to be used.

16 MADAM CHAIR: It should be explicit on the
17 start date --

18 UNIDENTIFIED VOICE: Of the school.

19 UNIDENTIFIED VOICE: Madam Chair?

20 MADAM CHAIR: Yes.

21 UNIDENTIFIED VOICE: Okay. The issue before
22 us today is whether the local Board's decision was in the
23 best entrance -- interests of the pupil community, and we,
24 the State Board must adhere to the state statute. And
25 although TriCity Academy has requested an order, state



1 statute does not permit the State Board to make a decision
2 on the opening start date or the grant.

3 What is the language here is the state, if -
4 - if a, finding is made in this direction the State Board
5 shall remand such final decision to the local Board with
6 instructions to approve the charter application. So that
7 is the only order, the thing that should be up for a vote
8 today.

9 MADAM CHAIR: Remanded Board approval?

10 UNIDENTIFIED VOICE: Yes.

11 UNIDENTIFIED VOICE: Madam Chair?

12 MADAM CHAIR: Yes.

13 UNIDENTIFIED VOICE: How, yeah, however --

14 UNIDENTIFIED VOICE: Clarifying.

15 MADAM CHAIR: Oh, she's got --

16 UNIDENTIFIED VOICE: Oh, you're still not
17 done.

18 UNIDENTIFIED VOICE: If -- if the State
19 Board would like to address the issue of the grant, then I
20 would propose that next month that you had said that that
21 gets put on the agenda to address that with Gretchen
22 Morgan.

23 UNIDENTIFIED VOICE: Okay. Excuse me.

24 Could we also not address the issue of giving TriCity
25 Academy the flexibility of having this decision applied to



1 their 2016 opening or as a separate issue, a separate vote.

2 Not In this.

3 UNIDENTIFIED VOICE: I guess I -- I -- I
4 don't understand your question. I'm sorry.

5 UNIDENTIFIED VOICE: You said that our
6 choice -- so our choice in -- in the issue before us --

7 UNIDENTIFIED VOICE: Yes. Yes.

8 UNIDENTIFIED VOICE: -- right now, the vote
9 we're taking now.

10 UNIDENTIFIED VOICE: Yes, yes.

11 UNIDENTIFIED VOICE: -- is to either approve
12 the district's decision or tell them to approve the
13 charter.

14 UNIDENTIFIED VOICE: Correct. That's --
15 that's --

16 UNIDENTIFIED VOICE: Okay. So that's all we
17 can do now, but --

18 UNIDENTIFIED VOICE: Yes.

19 UNIDENTIFIED VOICE: -- can we separately
20 address the issue of the 2016 date opening?

21 UNIDENTIFIED VOICE: No.

22 UNIDENTIFIED VOICE: So you're telling us we
23 have no ability to do that, and so no matter what we do
24 they're going to end up back here again next year.

25 UNIDENTIFIED VOICE: I'm not sure of that.



1 I mean that's, I -- I -- I don't know, but I'm --

2 UNIDENTIFIED VOICE: (Inaudible)

3 UNIDENTIFIED VOICE: -- going by, you know,

4 I mean it's -- I don't know what's going to happen to the

5 parties, but the way the language reads is that it's the

6 charter application is not actually a contract, so the

7 parties can communicate about an opening with those

8 negotiations if the State Board does remand back down. So

9 that would just have to be part of the communications.

10 That's where - that's how the language reads.

11 MADAM CHAIR: But if approve we can't say we

12 2016, we can just approve?

13 UNIDENTIFIED VOICE: So if you -- I guess I

14 would just want to clarify your language. If you decide to

15 uphold the -- the local Board's decision, then that would

16 mean to deny the application, but if you decide to remand

17 to the local Board, then you would have to what's called

18 approve the charter. You'd have to approve order the local

19 district to approve the application, and then that would

20 foster the parties to negotiate and go from there. That's

21 -- those are the only choices we have today.

22 UNIDENTIFIED VOICE: Yeah. But the reality

23 is that they don't have -- they don't have -- Sheridan

24 doesn't have space to build a school. That there is no

25 school that they can take or they haven't looked into that.



1 So we already -- we already decided upon -- I'm sorry --
2 about Englewood.

3 So my question again, are we talking about
4 two schools, since it has already been approved for
5 Englewood, are we going to approve another one for -- for
6 Sheridan?

7 UNIDENTIFIED VOICE: Are we talking among
8 ourselves?

9 UNIDENTIFIED VOICE: I think Tony would like
10 -- I think Tony would like to make a comment or address a
11 legal issue.

12 UNIDENTIFIED VOICE: Because I -- I thought
13 he said (inaudible).

14 MR. DYLAN: I thought it might be helpful at
15 this point to give you an idea about the constitutional
16 limitations that the Colorado Supreme Court put on the
17 State Board's authority. And this was in -- in the Booth
18 Case in 1999. Not surprisingly, it was my case, and one
19 thing that the State Board did to Denver Public Schools,
20 who was then a vigorous opponent of charters, was say we
21 want -- we want -- we want you -- we want you to give us
22 status updates.

23 And that particular issue went up to the
24 Supreme Court, and the Supreme Court had to decide whether
25 or not you ordering a local school district to establish



1 and fund a school violated their local control. And the
2 Supreme Court said it did not, but the reason they said it
3 did not is because under the statute all you can do is
4 order them to approve the charter application.

5 After that charter application is approved,
6 it's up to the district and the charter applicant to
7 negotiate the terms of the contract in good faith, at which
8 point in time, at least theoretically, the school district
9 could get a reasonable resolution to its concerns about the
10 charter contract.

11 Now, what happens if you decide to remand
12 this, and Sheridan decides to say, we insist on an opening
13 date of 2015. Well, there's another provision in the law
14 that would allow the -- the charter applicant at that point
15 in time to file a brand new appeal on a unilateral
16 imposition of a condition. So in the event that would
17 happen, that would be the process that goes on at this
18 point, but, unfortunately, I understand how frustrating it
19 is, but there -- there are actual reasons for some of these
20 limitations in -- in -- in the law, and I just thought
21 having some of that background might be useful for you.

22 MADAM CHAIR: Tony. The -- the two choices
23 that I have in my notes prepared by an attorney are that we
24 can move to affirm the decision of the local Board on the
25 grounds that it was not contrary to the best interest or we



1 can move that the decision of the local Board was contrary
2 to the best interests and remand the matter. Those are the
3 two -- if -- if one of those is chosen, isn't that
4 acceptable?

5 UNIDENTIFIED VOICE: That is correct. That
6 is correct. And -- and -- and, of course, either of those
7 comport with the law. The -- the other issue that has been
8 raised is regarding the -- the grant. And I -- I would
9 advise that should you decide to remand it to perhaps set
10 this for the next meeting, because I think we need to
11 determine before the State Board takes any action, exactly
12 what authority under state and federal law is available for
13 that grant for this year. And that's really just a matter
14 of the State Board not taking -- taking that action
15 (inaudible).

16 MADAM CHAIR: Okay. Any further discussion
17 or is somebody ready to make one of these motions,
18 discussion or motion?

19 MR. DURHAM: Motion.

20 MADAM CHAIR: Okay.

21 MR. DURHAM: Thank you, Madam Chair. I
22 would -- I wouldn't move that the Board remand this -- this
23 matter for approval to the local school Board for approval
24 of the charter application, local school Board. And with
25 regard to the start date, I just -- Dr. Schroeder told me



1 she'd be very unhappy if she had to sit through another one
2 of the hearings.

3 MADAM CHAIR: So this is your motion that --

4 MR. DURHAM: That's my motion.

5 MADAM CHAIR: We remand the matter, Dr.

6 Sheridan School District, second.

7 MR. DURHAM: To -- to approve.

8 UNIDENTIFIED VOICE: To approve.

9 MADAM CHAIR: To approve?

10 MR. DURHAM: Yeah.

11 UNIDENTIFIED VOICE: I second.

12 MADAM CHAIR: Pam?

13 MS. MAZANEC: I second.

14 MADAM CHAIR: Second. All right. It's been
15 moved and seconded at that -- that they we -- the decision
16 of the local Board was contrary to the best interest of the
17 pupils in the school district or community, and we move to
18 remand the matter to Sheridan School District Number 2 to
19 approve the application of TriCity Charter School. Moved
20 by Mr. Durham, and seconded by Pam.

21 Would you call a roll, please?

22 UNIDENTIFIED VOICE: No, no, no, further
23 discussion. Some of us didn't get -- somehow --

24 MADAM CHAIR: Okay.

25 UNIDENTIFIED VOICE: -- somehow somebody



1 jumped --

2 MADAM CHAIR: All right. Further
3 discussion. Go ahead.

4 UNIDENTIFIED VOICE: I didn't jump back. So
5 as I said, it is Groundhog Day. I just want Mr. Sparks,
6 and I can't read your name, I'm sorry. Adele --

7 MS. REESTER: Adele Reester.

8 UNIDENTIFIED VOICE: Adele Reester that just
9 because I didn't lay on you this time is because I did it
10 the last time, and asked all the questions, because it's
11 the same thing. It's the same from my point of view, the
12 same sad story, which is that Mr. Sparks talked about
13 having to bring it back next year. I think that would be
14 absolutely the best thing would be to come back to have a
15 community identified, to have students identified, to have
16 a good look at your curriculum, and have higher goals than
17 what is in there.

18 It's not that I don't want you to open. I
19 am a supporter of charter schools, especially for the
20 population that you seek to support, but I would agree from
21 having read the last time, the application, that it could
22 be a whole lot better. So I'm not going to vote for it for
23 that reason. And I --

24 MADAM CHAIR: (Inaudible) of discussion?

25 Jane?



1 MS. GOFF: I echo all of that, and also
2 encouragement that in these two communities, which are
3 pretty close to my area as well. There are very close
4 neighborhoods there. Such -- such an opportunity at a time
5 when it's -- when it's really thoroughly done, and there's
6 a feeling that, a true knowledge about that community, that
7 -- that everybody's there, I -- I completely encourage you
8 in continuing to try again.

9 I think one of the good things that's come
10 out of these discussions is some clarity, some movement
11 looking toward circumstances such as a grant that other
12 outside things that are coming into play, and can -- and
13 can work for everybody involved. I will be consistent with
14 what I said last time in my vote, in -- in that the -- to
15 uphold the district's decision in this. But I would also
16 encourage continued looking at this, and community
17 involvement overused phrase, perhaps trite, but really
18 getting down to the granular level of what the community is
19 saying, and they say they need is critical, and always have
20 hope that that can continue to be built up, taking --
21 taking advantage.

22 MADAM CHAIR: Thank you, Jane. Anymore
23 comments? Deb.

24 MS. SCHEFFEL: Yeah, thank you for the
25 presentations. You know, my sense is to continue to ask



1 these entities to try again is debilitating in districts
2 where there are many students that are not being served
3 well or we have thousands of kids on waitlists for charters
4 where we have need, and they -- the interest in options for
5 parents.

6 I think that they've tried hard enough at
7 this point to give them a chance to open, and -- and, you
8 know, we know there's inherent risk in any change of venue
9 in any charter, there's always risks, but I think that the
10 students in these districts have the right to have some
11 choice. So I guess I'd like to see this be another option.

12 MADAM CHAIR: Val, do you have a comment?

13 MS. FLORES: I do. I think that, you know,
14 given that I really don't think that the curriculum is
15 appropriate for this population. I also think that you're
16 pushing too much, and I really do think that the work you
17 get to have been done in the community, and pupils,
18 families identified, and I don't think that was done.

19 And I've read many proposals. I mean, for
20 years I did read for Denver public schools, and your --
21 your proposal wouldn't have cut muster. So I -- I just
22 can't go along with that. So I -- I would not go along
23 with your charter until it's worked out better. And I
24 think in a year you might be able to bring it to the school
25 district again for their approval, but I can't -- I can't



1 honestly go with that for at this point.

2 MADAM CHAIR: All right.

3 UNIDENTIFIED VOICE: (Inaudible).

4 UNIDENTIFIED VOICE: (Inaudible) are we
5 finished?

6 MADAM CHAIR: What?

7 UNIDENTIFIED VOICE: May I make one more
8 comment?

9 MADAM CHAIR: Sure, quick.

10 UNIDENTIFIED VOICE: I was just going to
11 make a quick comment about the curriculum. I don't know,
12 just in response to Ms. Flores, just the idea of direct
13 instruction, cultural relevance, use of technology, blended
14 learning, formative assessment. I mean, these are the
15 things that are part of the curriculum and the approach
16 that -- that -- that this application has depicted in their
17 application. So I guess I would say --

18 UNIDENTIFIED VOICE: It has a repetition.

19 UNIDENTIFIED VOICE: -- that we look at the
20 instructional focus, I think it has merit. Forgive me.

21 UNIDENTIFIED VOICE: No, because direct
22 instruction and then there's direct instruction.

23 MADAM CHAIR: Okay. Let's move it on. I
24 would as a reminder, Mr. Durham's motion was to remand the
25 matter to share in school district to approve the



1 application of try charter -- TriCity Charter School.

2 Would you call the roll please, Ms.

3 Burdsall?

4 MS. BURDSALL: Steve Durham?

5 MR. DURHAM: Aye.

6 MS. BURDSALL: Val Flores.

7 Ms. FLORES: No.

8 MS. BURDSALL: Jane Goff?

9 MS. GOFF: NO.

10 MS. BURDSALL: Marcia Neal?

11 MADAM CHAIR: Aye.

12 MS. BURDSALL: Pam Mazanec?

13 MS. MAZANEC: Aye.

14 MS. BURDSALL: Debora Scheffel?

15 MS. SCHEFFEL: Aye.

16 MS. BURDSALL: Dr. Schroeder?

17 MS. SCHROEDER: No.

18 MADAM CHAIR: Thank you very much, all of

19 you.

20 (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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Certified Vendor and Notary Public

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