



Colorado State Board of Education

TRANSCRIPT OF PROCEEDINGS
BEFORE THE
COLORADO DEPARTMENT OF EDUCATION COMMISSION
DENVER, COLORADO
March 11, 2015, Part 1

BE IT REMEMBERED THAT on March 11, 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: We will come back to order.

2 Please call the roll.

3 MS. BURDSALL: Steve Durham.

4 MR. DURHAM: Here.

5 MS. BURDSALL: Val Flores.

6 MS. FLORES: Here.

7 MS. BURDSALL: Jane Goff.

8 MS. GOFF: Here.

9 MS. BURDSALL: Pam Mazanec.

10 MS. MAZANEC: I'm here for a moment.

11 MS. BURDSALL: Marcia Neal.

12 MADAM CHAIR: Here.

13 MS. BURDSALL: Debora Scheffel.

14 MS. SCHEFFEL: Here.

15 MS. BURDSALL: Angelika Schroeder.

16 MS. SCHROEDER: Here.

17 MADAM CHAIR: Let's please stand for the

18 Pledge, and, Jill, how would you like to lead us in the

19 Pledge today?

20 ALL: I pledge allegiance to the Flag of the

21 United States of America and to the Republic for which is

22 stands. One Nation under God, indivisible, with liberty

23 and justice for all.

24 MADAM CHAIR: Is there a motion to approve

25 the agenda?



1 MS. SCHROEDER: So moved.

2 MADAM CHAIR: Second?

3 MS. GOFF: Second.

4 MADAM CHAIR: Any discussion?

5 All in favor say aye.

6 ALL: Aye.

7 MADAM CHAIR: That wasn't a loud, resounding
8 aye but I guess it'll do.

9 Are there any items that any Board member
10 wishes to place on the agenda? No?

11 Okay. We have a full meeting agenda today.
12 Believe me, we really have a full meeting agenda today.
13 And everybody that's walked in here has given me some sort
14 of piece of paper to add. So if I get -- miss a few,
15 please bear with us. We do have a very full agenda today
16 and we're going to work very hard to get through it, as
17 noted on the agenda, because we just need to get it all
18 down.

19 I would also encourage my fellow Board
20 members, in the future, if you do have items to add to the
21 agenda please make every effort to get them to Ms. Markel
22 before the session actually starts. That would be a great
23 help.

24 Moving on to the consent agenda, do I have a
25 motion to place items on a consent agenda?



1 MS. SCHROEDER: I move to place the
2 following matters on the consent agenda. 14.03, approve
3 the request for the reauthorization of the teacher
4 preparation programs at Colorado State University in Fort
5 Collins, as set forth in the published agenda; 14.04,
6 approve three initial emergency authorizations, as set
7 forth in the published agenda; 14.05, approve one renewal
8 emergency authorization, as set forth in the published
9 agenda; 15.02, approve Denver Public Schools' Innovation
10 application on behalf of Denver Discovery School, as set
11 forth in the published agenda; 15.03, approve Peyton School
12 District's application for certification of a multi-
13 district online school on behalf of Peyton Online Academy,
14 as set forth in the published agenda; 15.04, approve
15 Colorado Digital BOCES' application for certification of a
16 multi-district online school on behalf of the Pikes Peak
17 Online School, as set forth in the published agenda; 15.06,
18 approve Colorado Early College Douglas County's Early
19 College designation request, as set forth in the published
20 agenda; 16.01, approve Laura Ayres, Terry Croy Lewis, and
21 Leslie Levine to serve on the State Advisory Council for
22 Parent Involvement in Education, effective March 15, 2015,
23 as set forth in the published agenda; 16.02, approve the
24 2015 State Review panelists, as set forth in the published
25 agenda.



1 This is the end of the consent agenda.

2 MADAM CHAIR: Proper motion. Is there a
3 second?

4 MS. GOFF: Second.

5 MADAM CHAIR: Jane seconds. Is there any
6 discussion? Any objection?

7 All in favor say aye.

8 ALL: Aye.

9 MADAM CHAIR: All in favor say aye.

10 ALL: Aye.

11 MADAM CHAIR: Thank you.

12 All right. Ms. Markel, would you report to
13 the Board, please?

14 MS. MARKEL: Good morning, Madam Chair,
15 Members of the Board, Mr. Commissioner. You have quite a
16 number of materials in your packet that, first, I will note
17 that you have some items in front of you, on the dais.
18 These were -- they include the transportation rules, a
19 chart with the current list of waiver requests we've
20 received from districts, and other related matters that
21 will be before you.

22 As far as your packet, in 8.01 you have a
23 copy of the February formal opinion from the AG's office
24 and copies of all resolutions received to date. We did



1 receive one more this morning and I believe that is one
2 that is on the dais in front of you.

3 In 9.01, you have a copy of the rules for
4 the administration of the Exceptional Children's
5 Educational Act and tracked changes, along with a clean
6 copy, for ease of reference. You have a chart of the
7 written comments that have been received, and CDE staff
8 comments and response, along with the copies of the actual
9 comments themselves, the written comments. Additionally,
10 you have a crosswalk between statute and rule.

11 In 10.01, you have a copy of the Food and
12 Nutrition Services proposed rules and tracked changes,
13 along with a crosswalk between statute and rule.

14 In 10.02, you have a copy of the Rules for
15 Accounting and Reporting and tracked changes, along with a
16 crosswalk between statute and rule.

17 In 15.01, you have the materials which were
18 submitted by Montrose County Re-1 in support of its
19 application for Innovation status.

20 In 15.02, you have the materials submitted
21 by Denver Public Schools in support of its application on
22 behalf of Denver Discovery School's waivers from state
23 statute and rule.

24 In 16.02, you have the proposed list of
25 State Review panelists for the 2015 year.



1 In 17.02, you have a copy of the media
2 advisory announcing Cory Notestine as National Counselor of
3 the Year.

4 In 19.01, you have comments concerning the
5 transportation rules, and in front of you you have a copy
6 of the rules. And I apologize for the late delivery of
7 those rules to you, but I did not get those until this
8 morning.

9 In 20.01, you have the materials supporting
10 the presentation, Colorado Measures of Academic Success,
11 high schools social studies performance level descriptors,
12 along with a PowerPoint.

13 In 21.01 you have copies of the parental
14 rights resolution, which has been revised through the work,
15 I believe, of Board Member Mazanec and Jane Goff.

16 For Thursday's agenda, you have Ignacio
17 School District's presentation materials, you have Douglas
18 County School District's presentation materials, and
19 Healthy Kids Colorado Survey summary, an update.

20 And that's the end of my report, unless
21 there are questions.

22 MADAM CHAIR: Any questions? Thank you for
23 your report.

24 All right. Moving on to action items, and the
25 Commissioner's Report. Commissioner?



1 MR. HAMMOND: Great. Thank you, Madam
2 Chair. Excuse my voice. I have a little bit of a cold to
3 it, but it's gone away, although it leaves residues behind,
4 I'm afraid.

5 Two things -- well, one thing to relate to
6 the Board before we get started. We've made every effort,
7 based upon your past comment, to really shorten the
8 presentations. That doesn't mean the material that you
9 have is shortened. We've tried to provide summaries but
10 also you can go into great length and tried to get those to
11 you as far in advance as we possibly can, to allow you time
12 to read.

13 So you will notice, on this particular
14 agenda, our presentations will be short, to the best of our
15 extent, to allow you maximum time for talking and asking
16 questions of us. So if that doesn't work, let us know and
17 we'll just begin.

18 The first item on business today is an
19 action item that we've labeled School District Resolution
20 Regarding State-Required Standardized Assessments.

21 Just for the audience and those listening,
22 just briefly, as you remember, at your scheduled meeting on
23 January the 8th, the State Board had voted 4-3 to pass a
24 motion directing myself, as the Commissioner of Education,
25 to grant waivers to local school districts and boards to



1 the performance-based portion of the CMAS assessment if
2 that was requested by a district. In light of the State
3 Board of Education actions, I requested a formal opinion,
4 revisiting this matter for the State Attorney General's
5 Office, and that was presented at the last meeting, and you
6 had a previous informal meeting that was also submitted
7 earlier.

8 Just to let you know, as of today we have 27
9 requests for waivers. They vary a little bit but, in fact,
10 there are 27 waivers requests for assessments. Right now
11 that involves approximately 41,763 students who would test,
12 about 24.11 percent -- 24 rounded percent -- of student
13 population to which -- that would be impacted should a
14 waiver request be granted.

15 As I stated earlier, at the February 10th,
16 2015, meeting, you all received information from the
17 Attorney General, a copy of their February 4th formal
18 opinion regarding this entire issue. The opinion, as you
19 know, states, in part, that all the testing is clearly --
20 prohibits the State Board from granting a waiver to local
21 boards and districts from the performance-based component
22 of the English language arts and math assessments, or any
23 other statewide assessments required under Section 22-7-
24 409. At this point, a copy of that opinion is also, along
25 with every waiver request that we have received and



1 updated, we've included that in your packet for your
2 information. Again, this is presented to you for your
3 information.

4 At last month's Board meeting, we discussed
5 this briefly and all action was tabled at that point. As
6 Commissioner -- and you can certainly do as you desire to
7 do in your discussions -- it would certainly be our
8 recommendation from staff that either the Board rescind
9 this action as of January 18th or you vote the waivers
10 down, based upon the opinion of the Attorney General.

11 And so that, to which I will open up for any
12 discussion among the Board or others, Madam Chair. Thank
13 you.

14 MADAM CHAIR: Thank you, Commissioner. Is
15 there any further discussion by the Board, as to this
16 matter? Steve?

17 MR. DURHAM: Thank you, Madam Chair.
18 Somewhere I saw in here there were two items, one to
19 rescind the action, instructing you to grant those waivers.
20 Is that what we're on now, or is that somewhere --

21 MADAM CHAIR: Rescinding the action but
22 continuing to instruct them?

23 MR. DURHAM: No, no. I thought that was
24 what we were rescinding.

25 MADAM CHAIR: Rescind the action.



1 MR. DURHAM: Is that separate from the
2 action on the waivers per se? So for some reason I can't
3 find that particular piece of paper.

4 MR. HAMMOND: You and I are having the same
5 problem. I am trying to find it myself. I had it right
6 here.

7 There were three actions, one you could
8 approve the waivers, one -- I've got to find it -- that you
9 could rescind your January 18th, I believe the 18th,
10 action, or the third one, one you could deny the waivers,
11 okay.

12 MADAM CHAIR: The third one was the motion
13 to grant the waivers.

14 MR. HAMMOND: Yeah. I had them mixed up in
15 the order.

16 MADAM CHAIR: And the second is the motion
17 to rescind.

18 MR. HAMMOND: Right.

19 MADAM CHAIR: And the first is -- well, no.
20 Actually those are -- it's just those two actions. We
21 either rescind the Board action or we make a motion to
22 grant the waivers?

23 MR. HAMMOND: Right. One would be -- yeah,
24 that's correct.



1 MADAM CHAIR: Any other discussion before we
2 take any action?

3 MR. DURHAM: I'll make a substitute motion
4 to delay consideration of the waivers over until the April
5 meeting.

6 MADAM CHAIR: That's a motion? We have --
7 okay. Any further discussion before we -- does anybody
8 want to second that motion?

9 UNIDENTIFIED VOICE: Which motion?

10 MS. SCHEFFEL: Second.

11 MADAM CHAIR: Steve made a motion. Okay.
12 But before we -- I'd like to have further discussion on
13 that, from other Board members. Do we want to -- and
14 repeat that please, Steve. You want to --

15 MR. DURHAM: Just to table it until the
16 April meeting.

17 MADAM CHAIR: -- table it until the April
18 meeting.

19 UNIDENTIFIED VOICE: May I ask a question?

20 MADAM CHAIR: Yes, ma'am.

21 UNIDENTIFIED VOICE: Why would we table it?

22 MADAM CHAIR: Why would we table it?

23 MR. DURHAM: Well, I think -- thank you,
24 Madam Chairman. I think it continues to keep some pressure
25 and interest in the testing issue on the system as we



1 proceed through the second round of testing. While it is
2 unlikely that the waivers would be granted, in light of the
3 Attorney General's opinion, I think the process that was
4 started when we originally set in this process has been
5 positive in that it has created a significant amount of
6 discussion around this issue, and hopefully has brought
7 some pressure to bear on the vendor, and hopefully will be
8 bringing a lot more pressure to bear on the vendor as we
9 move forward.

10 So I think particularly given tomorrow's
11 group that's coming in, having these things around might be
12 of value when Pearson comes in.

13 MADAM CHAIR: Further discussion. Angelika.

14 MR. HAMMOND: Madam Chair, excuse me. Was
15 there a second, Steve, on your motion?

16 UNIDENTIFIED VOICE: Yeah.

17 MADAM CHAIR: Deb seconded.

18 MR. HAMMOND: And you were right. The first
19 motion was to deny. The second was to rescind the January
20 action and approve. The third motion that was recommended
21 you could choose would be just plain approval.

22 MR. DURHAM: Okay.

23 MADAM CHAIR: Yes, Angelika.

24 MS. SCHROEDER: So I'm going to disagree a
25 little bit with you, Steve. Those waivers did not actually



1 change anything except create confusion. The resistance to
2 the assessments has been going on since December or
3 January. We've heard it from superintendents. We've heard
4 it from teachers and parents, et cetera. So this didn't
5 really add anything but confusion and concern with the
6 request out there.

7 The folks who, I believe, need to hear from
8 us, and are hearing from everyone else, and have heard from
9 us are the legislators, because they're the ones, based on
10 this opinion, that have the authority to make the change,
11 not us.

12 So I disagree that this is in any way
13 helpful to leave this out there. It just sort of suggests
14 that we can't make up our minds, that we ignore the
15 Attorney General, and that we want this sense of confusion
16 out there, which I don't think is good for our districts.

17 MADAM CHAIR: Any further discussion? Let's
18 see if anybody else has --

19 MR. DURHAM: No. Go ahead.

20 MADAM CHAIR: Jane.

21 MS. GOFF: Just go ahead, because I need to
22 hear what you have to say.

23 MADAM CHAIR: Well, because I have something
24 to say too, but I'm deferring to the rest of the Board.



1 MS. GOFF: I do, but I need to hear what
2 he's got to say.

3 MADAM CHAIR: Can I make my comment first --

4 MR. DURHAM: Please.

5 MADAM CHAIR: -- and then you can probably,
6 if no one else has anything to say.

7 Once again, I am very concerned about the
8 atmosphere that's become abundant in the schools. I think
9 we've created confusion in the schools, and that is
10 something that I always try to avoid. Many of the school
11 districts sincerely thought they were so happy, you know,
12 they were not going to have to give the test. Some knew
13 that they probably would but were using this as pressure,
14 and that's fine. I have no problem with that.

15 But I think there comes a point where we
16 have to consider, and as one who would like to see the
17 tests, like to see us address that, I don't think this
18 particular action is the way to address it. I think we
19 just keep up the political pressure, which we don't hardly
20 need to do because everybody else is doing it anyway.
21 There's a lot of political pressure, both in Colorado and
22 in other states, about the testing and about the fact that
23 it is such a big, overreaching area.

24 And I agree with that. I'd like to -- and I
25 would have happily voted for that motion if I thought we



1 had any chance of it happening. But I felt, even at that
2 time, that it was not going to happen.

3 So I would add to what Angelika has to say
4 here. I don't think this is a good thing to do for the
5 schools. Making a political point is one thing, and I
6 understand that, but we also have a second, or a primary,
7 actually, position. We need to support our local schools
8 whenever we can, and creating confusion and pandemonium is
9 not a way to create -- to support our local schools.

10 So I would also disagree with the motion. I
11 think it sends a message to our schools that we don't want
12 to send. They've gotten involved in this whether they want
13 to or not, and we've kind of, in some cases, drug them in.
14 And most of them, every day, have children sitting at their
15 desks that they are teaching and they're doing their very
16 best at all times, and I don't think they need this kind of
17 added confusion. So that's my statement.

18 Any other comments? Deb.

19 MS. SCHEFFEL: You can respond first.

20 MR. DURHAM: No, go ahead.

21 MS. SCHEFFEL: So thanks for your comment.

22 My thought is that we were required to join PARCC. PARCC
23 is a very intensive test, as far as length and burden on
24 the schools, on the kids, on the parents, and this
25 suggestion that schools could apply for waivers, I think,



1 surfaces the issue for the public. We've had a lot of
2 interest from parents, from kids, from districts, and I
3 think it's a very good discussion to be having in the
4 public square. A lot of this came through the system
5 without a lot of parental -- with like hardly any parental
6 input, and with very little parental knowledge. Suddenly
7 now, because it's being given this year, and it counts,
8 there's a lot of interest.

9 And so I would argue that tabling it allows
10 districts to continue to voice their thoughts on PARCC and
11 to apply for waivers if they so choose. It allows us to
12 continue to have discourse in the public square around this
13 issue. And I think that was the effect of this motion. So
14 I would suggest that we table it to allow more districts to
15 consider the waiver.

16 MADAM CHAIR: And I agree with what you
17 said, Deb. We surfaced the argument which had not been
18 heard. I totally agree with that. I just think we reach a
19 point at which I think everybody knows the argument now,
20 they know where people stand on it, and I think to move
21 forward and continue that argument is detrimental to the
22 atmosphere in our schools.

23 Jane.

24 MS. GOFF: I'm seeing this as two -- at
25 minimum, two different issues are all wrapped up here. The



1 public comment and the awareness-raising and hopefully
2 better understanding has been absolutely beneficial, and I
3 have joined everybody in appreciating when you have public
4 engagement then answers are closer to coming. I think we
5 need to continue that.

6 Where the confusion comes is that this
7 particular motion, and the idea of waiving out of, it's one
8 part of the test. The way that motion was worded was one
9 particular part of the test. It's already started. It's
10 already complete in some areas. That, in my mind, will be
11 a moot phrase in that motion. But the idea of allowing
12 further public engagement is critical, and I do think we've
13 had a lot good illuminating thinking going on in the public
14 and among all of us as well. I think that's a great
15 benefit. I don't see why we cannot continue to encourage
16 healthy, enriching, informed dialogue, and one of the
17 places that needs to occur is over across the street.

18 So at this point I think that's where all of
19 our focus and energy ought to be directed, is making sure
20 that our legislators are as well informed as we can help
21 them be in making these decisions, and we go with what we
22 believe is best for our state. In regard to whether it's
23 PARCC or not, how we approach this is a separate issue from
24 raising awareness about the purpose of testing and the
25 outcomes we want to see, and how it lines up with what



1 we've said as a state we want for the best education system
2 possible.

3 So I would vote against tabling and having
4 this continue in this form. We've already been told it's
5 against the law, bluntly, and I don't think that helps our
6 communities understand or be less confused on anything. So
7 I would say no to this particular motion, and yet I want to
8 encourage all of us to continue engaging our folks in good
9 conversation.

10 MADAM CHAIR: Angelika has a quick comment
11 and then we'll let Steve wrap it up.

12 MR. DURHAM: No, go ahead.

13 MS. SCHROEDER: I guess I'd just add one
14 thing, that when we talked about this, a separate motion
15 which allows parents to opt out of the assessment without
16 harm to this district did take some of the pressure off and
17 some of the concern that I think was directly toward kids.
18 I think there are parents who felt that this was
19 problematic for their children and they were allowed to do
20 so.

21 I think doing that was helpful. I think
22 having a waiver out there that's not legal is in no way
23 helpful. They are two very different situations. Thanks.

24 MADAM CHAIR: Pat.



1 MS. MAZANEC: I just wanted to make -- thank
2 you -- make one comment about the legality issue. There
3 are a host of legal issues implicit in the PARCC itself,
4 and so we appreciate the Attorney General's opinion. But
5 there are a host of other issues, legal issues involved
6 with the PARCC test itself. So I guess I think we need to
7 continue to have a very deep discussion about this
8 assessment, about the data privacy issues, about the
9 contract itself, about the recent lawsuit that was filed --
10 several lawsuits in other states around PARCC. So I just
11 think there are many legal issues to address with respect
12 to this, not just the AG's opinion in Colorado.

13 MS. FLORES: Well, could -- Madam Chair,
14 would it be possible, then, to put this down -- continue
15 the discussion? And as you know, I have asked for a
16 special session for the Board to discuss this much further.
17 Would it be possible, then, to vote on this, Steve, to just
18 --

19 MADAM CHAIR: You're asking if Steve would
20 rescind his motion?

21 MS. FLORES: -- rescind his motion and we
22 could vote on this, but continue the discussion. I think
23 it has been a very healthy discussion and we need to
24 continue this discussion further.



1 MADAM CHAIR: I think I see that nod as a
2 motion to rescind, but just to continue the discussion. Is
3 that what --

4 MR. DURHAM: Right. I think --

5 MADAM CHAIR: And I see now that we have
6 another voice down there that's not been heard yet.

7 UNIDENTIFIED VOICE: Well, I would just say
8 I really don't see any downside to tabling these waivers.
9 Right now we have, what, 27 districts who are telling us
10 that they want relief. We know that we have a lot of
11 parents who want relief. I see no downside to continuing
12 to allow districts to speak out. There may be more. Maybe
13 we're at the end of it. I don't know. But I see no
14 downside in allowing districts to continue to tell the
15 State Board of Education that they do not like the PARCC
16 test.

17 MADAM CHAIR: Okay. I think we've had a
18 pretty good discussion here. We're going to let Steve wrap
19 up and then we will -- the motion still stands, as read.

20 MR. DURHAM: Correct. Yeah, I --

21 MADAM CHAIR: So you finish up here and then
22 we'll vote.

23 MR. DURHAM: I think having the issue on the
24 table as long as we've had has produced -- and this is a
25 valuable document in and of itself, for the legislature to



1 take a look at. And I think what we accomplish is we --
2 while there may have been plenty of discussion about the
3 test, this gave voice to people who really were able to
4 explain the problems that they had with the test in a
5 public forum, and I think has provided, hopefully, some
6 impetus for reform.

7 And, frankly, it led to Dr. Flores' motion,
8 which did allow us to get the parents, at least, some
9 relief from the pressure of the districts, although it's
10 clear not all districts have quite seen that light yet, but
11 it was helpful.

12 So I think having it around -- having this
13 hang around we may come up with another idea or two that
14 might be helpful. Plus the Attorney General, I know, has
15 been asked to look into the Missouri case to see if we have
16 some potential litigation opportunities there against
17 PARCC, and if we do then perhaps the Board could be
18 (inaudible) in that action.

19 So I don't think our options are closed. I
20 think, realistically, the school districts know that if we
21 were to grant these waivers they would likely be challenged
22 in a court, and there's at least a chance we would lose. I
23 think they know that but there's nothing wrong with
24 allowing them to continue to apply for waivers and to let



1 those pend for the next month. So I'll let the motion
2 stand.

3 MADAM CHAIR: All right. We're ready to
4 vote. I would just say that I think this has been a
5 valuable discussion, and I think, basically, we're all
6 pretty much in the same place on the idea of PARCC testing
7 and the problems that it's created. We just have different
8 ideas on how to deal with it.

9 So with that I will -- did you want to
10 repeat your motion, Steve, for us?

11 MR. DURHAM: Just to table this matter until
12 the April meeting.

13 MADAM CHAIR: Okay. To table matter of
14 waivers until the April meeting. Madam Chair -- or, Ms.
15 Markel, would you call the roll please?

16 MS. MARKEL: Steve Durham.

17 MR. DURHAM: Aye.

18 MS. MARKEL: Dr. Flores.

19 UNIDENTIFIED VOICE: Dr. Flores is out of
20 the room.

21 MS. MARKEL: Jane Goff.

22 MS. GOFF: No.

23 MS. MARKEL: Pam Mazanec.

24 MS. MAZANEC: Yes.

25 MS. MARKEL: Marcia Neal.



1 MADAM CHAIR: No.

2 MS. MARKEL: Dr. Scheffel.

3 MS. SCHEFFEL: Yes.

4 MS. MARKEL: Dr. Schroeder.

5 MS. SCHROEDER: No.

6 MS. MARKEL: Dr. Flores.

7 MS. FLORES: Yes.

8 MADAM CHAIR: That was -- I lost track, but
9 the motion carries. The motion carries, and let's move on.

10 UNIDENTIFIED VOICE: Yeah, 4-3.

11 MADAM CHAIR: Yeah. We took up quite a bit
12 of time on this. Again, if you notice in your agenda we
13 are pretty tight today so let's -- this was very important
14 and I think it was a good discussion and everybody got a
15 chance to say what they -- and I think kind of illuminated
16 the whole discussion for us all, no matter how we voted.
17 So I appreciate that. But I also would respectfully
18 request that we try to keep the rest of it in time.

19 Commissioner, would you care to continue?

20 MR. HAMMOND: Thank you.

21 MADAM CHAIR: Or are we through with you?

22 MR. HAMMOND: No.

23 MADAM CHAIR: Are we through with you?



1 MR. HAMMOND: No. That would be nice but I
2 don't think that's likely yet, at this point. You have to
3 live with me for two days, okay.

4 The second item on the agenda, and I call up
5 --

6 MADAM CHAIR: 8.01.

7 MR. HAMMOND: -- is 8.01. 8.01 talks about
8 the school district Elementary and Secondary Education Act
9 flexibility waiver renewal. Some time ago, as we explained
10 at the last meeting, we did apply for a waiver. We applied
11 for an amendment to the waiver. The waiver, in effect, in
12 very simplistic terms, in my opinion, has allowed Colorado
13 to get out of a lot of the burdens that the federal system
14 places on states. That is, the feds have their own
15 accountability system; we have our own accountability
16 system. The waiver has allowed us to defer to our
17 accountability system instead of having districts be, on
18 the one hand, saying they're a failing school, and on
19 another hand just because of some subcategory, and on
20 another hand that we're telling them they're a great
21 school. It also takes away the set-asides, the
22 notification of parents, a lot of increased paperwork on
23 the part of the districts as well as, again, the set-
24 asides.



1 We talked about this at the last meeting.
2 We have continued to gain feedback that has shaped the
3 waiver requests from the public, from various
4 superintendents. That said, it would be our hope -- and
5 this certainly is your decision today -- that we would
6 approve the waiver for submission to the Department of
7 Education. Whether they will approve it, who knows? But
8 again, it's due by the end of this March, at the present
9 time.

10 So with that I'll turn it over to Dr. Owen.

11 MADAM CHAIR: Dr. Owen.

12 MR. OWEN: Madam Chair, I think we can help
13 you make up some time here. As we talked last month about
14 the NCLB waiver application, we are going forward to this
15 (inaudible). Clearly this current ESEA waiver is set to
16 expire at the end of 2014-15 school year. The deadline for
17 submitting our request to renew is March 31st. As the
18 Commissioner stated, we have had some indication from
19 school districts as we've gone out, had our team go out to
20 different superintendent meetings around the state, that
21 they have indicated that the waiver has been a benefit to
22 them. This is being brought to you as an action item today
23 on your agenda.

24 So some of the proposed changes in the ESEA
25 waiver. There is some conversation, and we've included an



1 opportunity to have a potential pilot project around
2 accountability included. We've also included your motion
3 that is impacting districts and schools not being held
4 liable for parent refusals to test on the PARCC exam.
5 Flexibility in school turnaround models so that the
6 principal replacement is not always required, is another
7 thing that we've heard from school districts that have been
8 working through the school employment grants. Greater
9 flexibility for school choice and supplemental education
10 services options. These are the set-asides that the
11 Commissioner talked about earlier.

12 There are some adjustments based on
13 transitions to a new assessment, or some of the changes
14 that are in the documents that we provided to you.

15 Mr. Chapman, our Executive Director of
16 Federal Programs, is going to walk you through some of the
17 things, how it would look with the ESEA waiver, and without
18 an ESEA waiver, and then we'll be happy to take any
19 questions that you have.

20 MR. CHAPMAN: Madam Chair.

21 MADAM CHAIR: Yes.

22 MR. CHAPMAN: Thank you. So, in general,
23 we're able to use our state system of accountability and
24 support to meet the federal requirements. So we're using -
25 - the biggest difference between having a waiver and not



1 having a waiver is with the waiver we don't have to do
2 adequate yearly progress. We don't have to use that to
3 annually assess school and district performance. For the
4 most part we're able to use our frameworks, our school
5 identification process, the unified improvement planning
6 process to meet those federal requirements associated with
7 AYP and not making AYP.

8 In addition, because we're using our system
9 we have great discretion in targeting schools and districts
10 for the Title I school improvement funds, so we're able to
11 get those funds where they're needed most. There is some
12 reduction in the administrative and reporting burdens in
13 that we're only implementing one accountability system as
14 opposed to two, and we're able to use our plans and
15 timelines for standards and assessment implementation and
16 the implementation of principal and teacher evaluation.

17 Without the waiver, if we were to return to
18 using AYP, we would have the majority of schools and
19 districts that receive Title I funding on improvement.
20 Consequently, we'd be giving mixed messages to students,
21 parents, educators about the quality of their schools. So
22 under one system, under the state system, they might be
23 identified as doing okay. Under Adequate Yearly Progress
24 they would be identified for improvement. So we'd really
25 be back to two sets of labels, consequences, and timelines



1 for improvement. And we wouldn't have the ability, because
2 we'd have so many schools and districts on improvement, we
3 wouldn't have the ability to target the improvement funds
4 where they're needed most. And again, we'd sort of return
5 to having a duplicative system and duplicative
6 administrative burdens on schools and districts.

7 So, as I said, if we were to go back to
8 doing Adequate Yearly Progress with those targets being at
9 100 percent partial proficiency, we would have, I think
10 it's 113 school districts on improvement for this school
11 year with an additional 53 likely to go on improvement next
12 year. For schools, this is restricted to just the schools
13 that receive Title I funding. There are approximately 630
14 Title I schools in the state. We would have the majority
15 of those identified for improvement currently, and then
16 we'd have another 214 that would likely go on improvement
17 for the 2015-16 school year.

18 So what does that mean? Under Adequate
19 Yearly Progress there's a timeline, so you advance in the
20 improvement cycle over time. In 2014-15, if we had been
21 doing Adequate Yearly Progress, we'd have approximately 80
22 districts that would be in the corrective action phase of
23 Title I improvement for the '14-'15 school year. What that
24 means is, really, the state would be expected to take some
25 sort of corrective action with those districts. Those are



1 listed in the bullets. The one note I would make is the
2 last, which authorizes students -- basically school choice,
3 and we already have school choice in Colorado. If we were
4 to use that as the corrective action we would have to do so
5 in tandem with at least one other corrective action that's
6 listed there.

7 For schools, we would have around 80 or so
8 schools with a large number being added to that list in the
9 school restructuring phase of Adequate Yearly Progress, and
10 those are the consequences tied to that status, listed
11 there, so chartering, replacing school staff, other sort of
12 major restructuring of the school's governance.

13 About a week or two ago, the USDOE did make an announcement
14 -- I wish they had done it a while back -- but they are
15 granting additional flexibility to states that are
16 administering new assessments during this school year. And
17 this new flexibility applies whether we have a waiver or we
18 do not have a waiver. And it's basically saying that
19 states that are implementing new assessments can not assign
20 school ratings and do not have to move forward with
21 interventions for schools and districts that have been
22 identified for improvement. So it's sort of an
23 accountability pause for the '15-'16 school year.

24 And for that, if we want to take advantage
25 of that flexibility -- and again, it's regardless of



1 whether we have a waiver or not -- we would need to submit
2 a request for that flexibility by the end of this month, by
3 March 31st.

4 MS. FLORES: May I ask a question, Madam
5 Chair?

6 MADAM CHAIR: Yes.

7 MS. FLORES: So that would mean that we
8 wouldn't have to ask the districts to, or provide -- well,
9 actually, the feds -- with -- we would ask a waiver not to
10 count this year.

11 MR. CHAPMAN: Madam Chair.

12 MADAM CHAIR: Yes.

13 MR. CHAPMAN: That's correct, that basically
14 accountability would take a holiday for the year.

15 MR. OWEN: I just want to make sure it's
16 clear. That's for federal.

17 MR. CHAPMAN: Yes.

18 MR. OWEN: The state accountability laws,
19 the school performance frameworks, the way that we
20 calculate all the state, is still in statute at this point,
21 so we would have to adhere to that.

22 MR. CHAPMAN: That's correct.

23 MR. OWEN: We do have -- I'm sorry. Madam
24 Chair.

25 MADAM CHAIR: No, that's fine.



1 MR. OWEN: We do have some legislation last
2 year that allowed the state to use prior year accreditation
3 ratings as a starting point for this coming school year's
4 school performance frameworks and district frameworks, but
5 it's not exactly the same flexibility as what the feds have
6 offered in this new proposal that they've put out.

7 MS. FLORES: So, Madam Chair, may I
8 continue?

9 MADAM CHAIR: Yes, but quickly.

10 MS. FLORES: What would be the plusses and
11 the minuses of this waiver for the feds and the waiver for
12 the state if we were to take it?

13 MR. OWEN: Madam Chair.

14 MADAM CHAIR: Yes.

15 MR. OWEN: So I will provide some
16 clarification.

17 MADAM CHAIR: We want to give it to the
18 state, right?

19 MR. OWEN: Right. We're not proposing
20 anything the state legislation or state right now. And to
21 clarify what Mr. Chapman says, it's not applies. It's a
22 hold, with the federal accountability piece. What that
23 would do is we'd still have to calculate all of the AYP and
24 work with the feds to identify what year we would have to
25 use, whether it was the prior year with TCAP results or if



1 we had to go back to when our waiver first was approved and
2 use those dates and that information. So there are some
3 things we would have to work out with the Federal
4 Government on that point.

5 But today, I think specific to your
6 question, Dr. Flores, what's the advantages and
7 disadvantages of the NCLB waiver versus going back to NCLB.
8 Is that what you're asking?

9 MS. FLORES: Well, the waiver is important,
10 isn't it? I mean, to ask for the waiver. But for this
11 specific issue, taking account another year rather than
12 this particular year, the scores on this particular year,
13 is that what we're talking about?

14 MR. OWEN: Okay. Madam Chair, I think I
15 have a better understanding of the question.

16 So, yes. I think from our perspective at
17 the Department the ability, with new assessments, to let
18 that process work its way out and make sure that we
19 understand what that data means, it would make sense to not
20 run federal accountability during the '15-'16 school year.
21 From our perspective, whether the waiver is approved or not
22 approved, we think it's important to submit this additional
23 request to pause -- not pause, but hold accountability, the
24 federal accountability for the '15-'16 school year. Okay.

25 MS. FLORES: Thank you.



1 MADAM CHAIR: Thank you. Is it a clarifying
2 question?

3 UNIDENTIFIED VOICE: Yes, it is.

4 MADAM CHAIR: It is?

5 MR. OWEN: Madam Chair. I would just note
6 that we're done with our presentation.

7 MADAM CHAIR: Oh, okay. Very good. All
8 right. Angelika?

9 MS. SCHROEDER: So I'll try to make this a
10 question instead of a comment. If we do not apply for the
11 waiver, does that take away our opportunity to do some
12 pilots?

13 MR. OWEN: Madam Chair.

14 MADAM CHAIR: Yes.

15 MR. OWEN: Under the NCLB waivers that have
16 been allowed over the last few years, this amendment
17 process to the waivers has been -- I think there's a
18 greater desire by USDOE to grant some flexibility through
19 that amendment process when you're under a waiver. Would
20 they not allow us to do a pilot under NCLB? I'm not sure
21 of the answer to that question. It's possible that they
22 would still entertain a potential waiver, but when we
23 haven't flexibility and we're implementing NCLB, they have
24 been reluctant to grant other things to states under that
25 scenario. So I don't want to speak in absolutes but I



1 don't think it's likely, but it's something we could still
2 pursue and see what they would say.

3 MS. SCHROEDER: Okay. So I guess then I
4 will make a comment, which is that in the concerns that
5 I've heard from some of my districts when they've asked me
6 to come in and hear what are the challenges with the
7 testing, and we've gone a little bit deeper into the
8 conversation, there are some districts that really want to
9 try to demonstrate some different ways of assessing kids,
10 some different timing, et cetera, in order to try out an
11 accountability system that is more aligned with a
12 competency-based education system. I've seen that in
13 several places.

14 And I think there are some folks that have
15 been giving this a lot of thought and are fairly ready to
16 come forward and say, "So here's an alternative
17 accountability system that we would like to propose in our
18 district for next year." And I would hate to -- I mean, I
19 haven't promised them other than to say that I would
20 certainly support our doing that, that there's nothing
21 wrong with trying to be a little bit innovative in changing
22 this model whereby our testing system doesn't actually
23 align with where we're trying to go with kids.



1 So the folks are out there in Colorado,
2 ready to give some thought to using some very different
3 models, which hopefully will tell us stuff. Thanks.

4 MADAM CHAIR: Yes.

5 MR. OWEN: Madam Chair, I would just say to
6 that that that was also one of the recommendations that
7 came out of the 1202 Committee, was to look at potential
8 pilot opportunities. And there is a possibility, I would
9 say, of potentially some state legislation that would also
10 help drive that. We are committed to that at the
11 Department. We've been helping school districts really
12 look at that and have conversations about that. And I
13 think some of you understand that New Hampshire's amendment
14 to their waiver that allows for a pilot project just got
15 approved. I think it was last week or early this week.

16 So there are -- the path forward, from where
17 we're currently at with annual assessments, I think is
18 going to be defined largely by these opportunities to look
19 at alternative systems.

20 MADAM CHAIR: Okay. So what you're saying
21 is approving this request does not preclude Angelika's
22 suggestion that would allow it. Is that what you're
23 saying?



1 MR. OWEN: Madam Chair, yes. It's included
2 in what we would submit as an opportunity to potentially
3 run pilots, yes.

4 MADAM CHAIR: Thank you. Any more
5 questions? Pam.

6 MS. MAZANEC: Does the current waiver
7 include the portability of Title I funds? I actually have
8 two questions. That's my first one.

9 MADAM CHAIR: Pam, I don't know if it's just
10 me but can you move your plaque over a little bit. I'm not
11 hearing you well.

12 MS. MAZANEC: You can't hear me?

13 MADAM CHAIR: I can't hear you.

14 MS. MAZANEC: That hardly ever happens.

15 MR. OWEN: Madam Chair, as you know we have
16 a two-year pilot to test portability. I think we're coming
17 to you guys next month, or maybe it's in May, to sort of
18 give you an end-of-year report on how it's gone this first
19 year, and then we'll implement it for an additional year.
20 It's not included as part of our waiver request. So we're
21 engaging in that model, that model pilot, aside from the
22 waiver.

23 MS. MAZANEC: So could we do that, though,
24 in the school choice and innovation?

25 MR. OWEN: Madam Chair.



1 MADAM CHAIR: Yes.

2 MR. OWEN: I think when we had conversations
3 last year about the potential for the pilot project around
4 this, we got the indication that we didn't need to submit
5 an amendment to the waiver to do this. So they were okay
6 with us running the pilot under the parameters that we
7 brought to you, as the Board, to get approved. And so
8 they're just watching to see the results of that, and it is
9 a conversation piece that's also happening around ESEA
10 reauthorization. If you've been keeping up to some of the
11 conversations and some of the amendments that have been put
12 forth with some of the different bills, that's a key piece
13 of some of the bills, and there's been some pros and cons
14 against that that have been playing out with Congress.

15 UNIDENTIFIED VOICE: Madam Chair.

16 MADAM CHAIR: Yes, sir.

17 UNIDENTIFIED VOICE: We've been supportive
18 of the pilot, and this is the first year, what, the second
19 year. But, you know, we want to talk with facts and we
20 want to show what the facts are, what inherent costs are in
21 such a design, if we could apply that statewide. I think
22 we have the authority to do that, but the question is,
23 we've embarked on this pilot, is to get all the figures and
24 then bring that back to you first, after the first year,
25 and the second one, if it's successful, then if there's any



1 appropriation for additional equipment we'd have to put
2 that in there. Other than that, that'd where we're going
3 with this, because we've interpreted it as we have the
4 authority to do it. It's just a question of the systems to
5 be able to have it on a statewide basis.

6 MADAM CHAIR: Thank you. Jane.

7 MS. GOFF: Yeah. I'm going to go to the
8 logistics of the whole thing. With an ever-optimistic
9 attitude and outlook that ESEA will actually have something
10 happen to it, how does that line up with the timing? This
11 newest application is due at the end of this month. When
12 is notification expected?

13 MADAM CHAIR: Yes.

14 MR. OWEN: Madam Chair.

15 MADAM CHAIR: Yes.

16 MR. OWEN: The intent, I think, from USDOE -
17 - and again, it puts on the volume, I think, that they get
18 with states and the timing of when everything is submitted
19 -- but the intent was to, I think, get the states approved
20 in June, or by June 1st. So a pretty quick turnaround time
21 from a federal perspective of when they have historically
22 got back to us. It's aggressive. Whether they can meet
23 that with all the states, we'll see, but I think that's at
24 least what I've heard. Is that your understanding, Mr.
25 Chapman?



1 MR. CHAPMAN: Yes.

2 MS. MAZANEC: Okay.

3 MADAM CHAIR: Thank you.

4 MS. MAZANEC: And then, next step. Suppose
5 something does happen in this Congress, and, you know, even
6 looking ahead toward some time during the next school year,
7 this is a very basic question. What happens with this
8 waiver should there possibly be a whole different-looking
9 picture around the new ESEA?

10 MR. OWEN: Madam Chair.

11 MADAM CHAIR: Yes.

12 MR. OWEN: As soon as ESEA is reauthorized
13 and signed, all of the waivers go ahead, in the sense that
14 the new law is what will preside. Whether they have a
15 builder (ph) to transition states from current waivers to
16 the new law, that's something that I think would be under
17 consideration, if they have a timing of it and how they
18 would do it. Whether they would do it midyear -- if ESEA
19 is reauthorized, for example, by December of 2015, would
20 they allow a transition out of the current school year for
21 states under waivers. I think they'll work all those
22 details out. But the new law would really be what drives
23 states going forward.

24 MS. MAZANEC: Well, you sound pretty
25 optimistic. I'm just thinking that midyear -- let's say it



1 did happen in midyear -- what would that do to our
2 accountability system? I would assume we'd still continue
3 operating under whatever we had in place, for the time we
4 had told districts.

5 MR. OWEN: Sure. Madam Chair -- and I'm
6 trying to sound optimistic, so if I'm sounding optimistic,
7 I'm sorry.

8 MS. MAZANEC: I'm kidding.

9 MR. OWEN: Okay. Because I'm not sure.
10 We've been down this road several times with
11 reauthorization and it seems like it gets legs and then
12 stalls out. So I'm not -- I've had a running debate with
13 Ken DeLay about this, that I'm not sure exactly when, from
14 CASB, when it's going to happen. But if it's going to
15 happen I think the likelihood of it happening by the end of
16 this year is probably best. If not, I think it will take
17 another administration to reauthorize ESEA. I don't think
18 it will happen under this current administration.

19 So the state requirements are still in
20 place, and largely we're using state accountability under
21 the NCLB waiver. So that still continues on, whether we
22 get reauthorized, whether we're under NCLB waiver. If we
23 go back under NCLB then we'll be running both systems, the
24 state system and the NCLB system.

25 MS. MAZANEC: Okay.



1 MADAM CHAIR: Thank you. Anyone else? Deb?

2 MS. SCHEFFEL: Yeah, I think this is such an
3 important issue that I worry that we only had 30 minutes to
4 talk about it. But I have a list of questions. Shall I
5 give them all right now, or -- is that all right?

6 MADAM CHAIR: Well, we're all right. We've
7 got five minutes to spare here. That's pretty good for us.

8 MS. SCHEFFEL: The NCLB waiver only applies
9 to Title I schools. Is that right?

10 MR. OWEN: Madam Chair.

11 MADAM CHAIR: Yes.

12 MR. OWEN: Title I schools and Title I
13 districts.

14 MS. SCHEFFEL: Right. Okay. And so it
15 strikes me that reading through this report, though, it was
16 very difficult to get a succinct statement in this lengthy
17 report as to exactly what the waiver requests, exactly the
18 strings attached and money attached, how long it lasts, and
19 what the outcomes are. I mean, I appreciate the summary in
20 the PowerPoint, but it still seems unclear to me, having
21 read both documents.

22 So here's my question. It seems to me that
23 -- well, my question is, do districts have more flexibility
24 on corrective action without the waiver? Because I think
25 what this document seems to be saying is we need the



1 waiver, because it's central -- it allows Colorado to do --
2 to use its model alone, and it strikes me that our model
3 has less flexibility than if we were not to have a waiver.
4 And I think that's been depicted in the PowerPoint as
5 creating confusion. But then I'm back to my logic path
6 which is, but is our system fair? Is it right? Does this
7 give us an implicit opportunity to look at the growth model
8 and find out if it really works well? I've looked at some
9 recent analytics on the growth model and I'm thinking, I
10 think there's problems with the growth model.

11 So I'm wondering, if we want to ask for the
12 waiver, which says let's just have one system, it's the
13 system Colorado put in place, with input from all over the
14 -- you know, from a number of entities, and it strikes me
15 that it's creating less flexibility for districts if we
16 apply for the waiver.

17 MR. OWEN: Madam Chair?

18 MADAM CHAIR: Yes.

19 MR. OWEN: So, Dr. Scheffel, I think the
20 best way to try to explain that is, if we go back under
21 NCLB, you continue running the state system as is in place
22 right now.

23 MS. SCHEFFEL: Right.

24 MR. OWEN: The only thing in addition is now
25 you run the federal system on top of it. So if you go back



1 under a waiver -- I mean, if you back under NCLB, you are
2 adding some complexity to what districts have to deal with.
3 They have to deal with the state system still, and now they
4 have to also deal with the federal system in addition to
5 that. And so it's both, instead of just using the state
6 system to supplement the federal system.

7 Does that make sense? So you have
8 additional requirements. The state requirements, the state
9 law doesn't go away. That's still in place under NCLB
10 waiver. It's also in place under NCLB. Either way, that
11 state system, until it's changed or modified, is what
12 guides districts and schools from the state perspective.
13 We've been utilizing that to also -- to take care of the
14 federal requirements.

15 MS. SCHEFFEL: Okay. And is -- what money
16 is attached to the waiver from NCLB and what strings are
17 attached, and can those be changed? In other words, how
18 long is the contract in force, what is the authority to
19 enforce it, and can there be changes midstream, because I
20 think there were in the previous waiver. I mean, it
21 strikes me that, okay, we send this in, we sign it. It
22 strikes me that in the last iteration there were changes to
23 how that looked and how that was implemented after the
24 fact. So we might vote on the waiver today thinking it's
25 one thing, but midstream, because there's money and certain



1 dependencies attached to it, that that can change. Can you
2 respond to this?

3 MR. OWEN: Sure. Madam Chair.

4 MADAM CHAIR: Yes, sir.

5 MR. OWEN: I'll let Mr. Chapman -- I think
6 this is a four-year renewal.

7 MR. CHAPMAN: Three.

8 MR. OWEN: Three-year renewal, so the time
9 frame is three years for the renewal of the waiver.

10 The ability to make amendments has always
11 been a part of what USDOE put in place with the waiver
12 process. And so, yes, when things -- for example, state
13 legislation changes, and we submit the waiver under the
14 current state legislation but it is modified. We would go
15 back through the amendment process and say the state
16 legislation changed, it's directing us to do this, and we
17 would submit that waiver and then work with USDOE to get
18 that approved. So that process has been there and would
19 continue to be there throughout the three years that we
20 would have the waiver.

21 MS. SCHEFFEL: But can the USDOE make
22 changes midstream?

23 MR. OWEN: My understanding, they've only
24 added -- I'm sorry. Madam Chair.

25 MADAM CHAIR: That's all right.



1 MR. OWEN: My understanding is they've only
2 had opportunities to grant flexibility to the existing
3 requirements. They haven't put additional burdens on
4 school districts after -- or states after they've got
5 waivers approved.

6 MS. SCHEFFEL: Am I right -- may I ask
7 another question, Madam Chair?

8 MADAM CHAIR: Pardon?

9 MS. SCHEFFEL: May I ask another question?

10 MADAM CHAIR: Sure.

11 MS. SCHEFFEL: On page five of the
12 PowerPoint it suggests that the waiver results in requiring
13 college- and career-aligned assessments, which are with
14 PARCC. So does that suggest that that, in a sense, creates
15 the conditions to keep us coupled with PARCC?

16 MR. OWEN: Madam Chair.

17 MADAM CHAIR: Yes.

18 MR. OWEN: No. States can develop their own
19 assessments as long as they meet those ready standards,
20 college- and career-ready standards. It doesn't have to be
21 a specific assessment like PARCC or Smarter Balance.

22 MS. SCHEFFEL: Good. And finally, can you
23 look at the corrective action required under our system
24 versus NCLB, page nine of the PowerPoint, and another list
25 that I have? It seems like with House Bill 14-1182 -- is



1 that right? -- they added the phrase with our state system
2 that other actions of comparable or greater significance
3 can be added to the schools on the five-year clock. Right,
4 so we have that list -- turnaround, school innovation
5 district, management contract, charter conversion, close
6 the school, and so forth. And then this NCLB list,
7 implementing a new curriculum, replacing district. I mean,
8 how do you think about the schools on the five-year clock
9 and what the -- how to deal with that? It strikes me that
10 there are more options on the NCLB list than if we get a
11 waiver from it.

12 MR. OWEN: Madam Chair.

13 MADAM CHAIR: Yes.

14 MR. OWEN: So these could be in addition to
15 the five-year clock requirements. The five-year clock
16 requirements wouldn't go away because those are state
17 statute. So that's in place. That's required of school
18 districts under state statute.

19 This would be kind of put on top of it, and
20 that's where the complexity and some of the confusion comes
21 into school districts. They're under a five-year clock
22 requirements and they have those kind of things that
23 they're looking at as far as pathways. And then this would
24 come on top of it and would be a part of that conversation
25 in addition to the state requirements.



1 MS. SCHEFFEL: So if a school is in the
2 fifth year, is one of the options, if we ask for the waiver
3 or if we don't ask for the waiver that we could ask them to
4 implement a new curriculum?

5 MR. OWEN: Madam Chair.

6 MADAM CHAIR: Yes.

7 MR. OWEN: So we could continue -- the
8 consequences and timelines under Senate Bill 163 would
9 continue to move forward, with the five pathways,
10 essentially, for schools and districts.

11 Yes, on top of that if a school is
12 identified as being corrective action, that could be
13 included on top of the consequences for the restructuring
14 of the schools that are under 163.

15 MS. SCHEFFEL: With the waiver or without
16 the waiver? Either way.

17 MR. OWEN: That would be required without
18 the waiver, because these are only in place without the
19 waiver.

20 MS. SCHEFFEL: So if we ask for the waiver,
21 one of the options is not implement a new curriculum.
22 There are a lot of double negatives here.

23 MR. OWEN: Madam Chair.

24 MADAM CHAIR: Yes.



1 MR. OWEN: I think the pathways under Senate
2 Bill 163 leave a lot of that discretion to local school
3 districts to make those kind of decisions. These are more
4 intrusive -- the federal requirements are more intrusive to
5 that school-level decision-making in the sense of taking
6 away some of that local authority, whereas under Senate
7 Bill 163, there are opportunities to, for example, the
8 pathways, they're somewhat limited still, but they're
9 around charter schools, innovation schools, closing schools
10 that are changing management of the schools. Those are
11 components that are current available under the pathways of
12 163, to schools that exhaust their opportunities under the
13 five-year clock.

14 MR. CHAPMAN: Madam Chair.

15 MADAM CHAIR: Yes.

16 MR. CHAPMAN: Yes, Dr. Scheffel, you're
17 exactly right. If we did not have the waiver it almost
18 takers away a lot of your rights. With the waiver you have
19 more flexibility under existing state system, to include
20 anything you want to, basically, within the categories we
21 have. So that almost takes away some of your flexibility
22 if we did not have the waiver in that particular area.

23 MS. SCHEFFEL: Okay. Can I ask one final
24 question? Is there a list somewhere that says this is the
25 money attached to this waiver and these are the strings



1 that the feds have attached to it? I mean, with the 5
2 percent issue last time, I guess I wasn't real clear on it.
3 I must have read it but it didn't surface itself to me that
4 part of the attachment to requesting a waiver last time was
5 that schools must show 95 percent participation in these
6 assessments. What strings are attached to the money at
7 this point? Is there a list somewhere?

8 MR. OWEN: Madam Chair.

9 MADAM CHAIR: Yes, sir.

10 MR. OWEN: I'll let Mr. Chapman talk
11 specifically, but my understanding is that the federal
12 funding coming in, whether the waiver or without the
13 waiver, is the same amount of money. There's no additional
14 changes or opportunities for more money under one or the
15 other. There could be more restrictions to the ELEAs, to
16 the school districts, under NCLB, about the use of those
17 funds, in the sense that if they're on restructuring, if
18 they meet one of these corrective action categories under
19 NCLB, it's their discretion to utilize those funds the way
20 they want under our existing waiver. So it becomes
21 somewhat limited because then they have to set aside a
22 certain amount of funding for transportation, they have to
23 set aside a certain amount of funding for school choice,
24 they have to set aside for, I think, professional
25 development. It restricts what they do with their Title I



1 funds. But they don't get more Title I funds as a result
2 of being under a waiver or without the waiver.

3 MS. SCHEFFEL: Okay. Is there a list?

4 MADAM CHAIR: Do you want it right now?

5 MR. OWEN: Madam Chair.

6 MS. SCHEFFEL: Are we supposed to vote on it
7 today?

8 MADAM CHAIR: Yes.

9 MS. SCHEFFEL: I need a list of exactly what
10 the strings are attached to this waiver. What are the
11 strings?

12 MR. OWEN: Madam Chair.

13 MADAM CHAIR: Yes.

14 MR. OWEN: So the list -- there would be no
15 list. The funding that's coming into the state is the same
16 under either scenario.

17 MS. SCHEFFEL: The funding, but the strings
18 attached to asking for the waiver. Why wouldn't every
19 state ask, or why would no states ask? I mean, what's the
20 motivation? There has to be some motivation for the waiver
21 besides just altruism, right? I mean --

22 MADAM CHAIR: Yes.

23 MR. OWEN: Madam Chair, we can go through
24 again. The corrective actions that are under page nine and
25 I think for schools and for districts, and a lot of the



1 set-asides and their restrictions under duplicative
2 messages that are being sent to schools and communities
3 around (inaudible) and NCLB, that's the motivation for a
4 lot of states submitting waivers to USDOE, is they really
5 want to run their state system of accountability. And so
6 if they don't have a waiver they have to run whatever state
7 system they have and the federal system. And so that's why
8 I think there's over 40 states, close to 40 states that
9 have NCLB waivers in place, and that's why, you know, out
10 of all the states, that's the reasons why they're
11 submitting these.

12 The corrective actions, the list of
13 corrective actions -- we could certainly get you that --
14 are a requirement for NCLB for schools and districts. That
15 shouldn't be too difficult to pull up and produce.

16 MADAM CHAIR: Okay. About through?

17 MS. SCHEFFEL: Well, maybe another Board
18 member could comment. I just have a hard time believing
19 that the feds, out of the goodness of their heart, would
20 allow the states to apply for waivers so that they could
21 have more states' rights. I mean, I have a hard time
22 believing that. I mean, why would the -- I guess I --

23 MADAM CHAIR: Okay. Did you have a comment?

24 MR. DURHAM: It's probably a question. One
25 is, if this application is considered modified, let's say



1 it's granted in some form, does it come back to the Board
2 for approval or acceptance of the waiver, or are done at
3 that point, as a Board?

4 MADAM CHAIR: The motions have to do with
5 approving the flexibility waiver --

6 MR. OWEN: Madam Chair.

7 MADAM CHAIR: -- or not approving. Yes.

8 MR. OWEN: I think I understand Mr. Durham's
9 question. As submitted, if there are required changes by
10 USDOE to get it approved that are different than what's
11 being submitted today, does that come back to the State
12 Board then for their approval before USDOE signs off on it
13 as well.

14 MR. DURHAM: Yes.

15 MR. OWEN: Is there another step if there's
16 changes to it.

17 MADAM CHAIR: But we would have access to
18 approve or disapprove of that action.

19 MR. OWEN: Madam Chair, yes, that is
20 correct.

21 MR. DURHAM: Because if there are changes
22 then we could say yes or no and reject the waiver at that
23 point in time?

24 MR. OWEN: That's correct.

25 MADAM CHAIR: Yes.



1 MR. DURHAM: And then, secondly, on page 15
2 of the waiver, let me just read the quote here.

3 "Colorado's academic standards in all content areas have
4 been revised from top to bottom and brought in complete
5 alignment with those in Common Core."

6 I have heard a number of times, in my short
7 service here, that we have Colorado standards -- you know,
8 they're really Colorado developed standards. A lot of
9 those comments, and this statement, cannot both be true. I
10 happen to personally believe this statement is true. So
11 I'll make my truth in labeling point one more time, that we
12 really shouldn't refer to Colorado standards because we
13 don't have Colorado standards, and the waiver makes that
14 quite clear.

15 If I could proceed, on page --

16 MADAM CHAIR: Do you want to comment on the
17 first question before you go on?

18 MR. DURHAM: Well, if they want to discuss
19 it --

20 MADAM CHAIR: Do you have a comment on that,
21 Dr. Owen?

22 MR. OWEN: The only clarification, Madam
23 Chair, that I'd have to that is for language arts and math,
24 that should be appropriate. But for the rest of the
25 standards, those are absolutely developed by Colorado.



1 Jill can talk to this in more depth if you have more
2 questions on it.

3 MADAM CHAIR: All right. Thank you. Go
4 ahead, Steve.

5 MR. DURHAM: Thank you. Then this is one
6 that I just couldn't make jive, on page 67. You have five
7 accreditation designations and then you have a chart on
8 page 68 that has -- unless my counting is getting back,
9 only has four designations. Did I miss something, or is
10 there something awry there?

11 MR. OWEN: Madam Chair.

12 MADAM CHAIR: Yes.

13 MR. OWEN: For school districts, there are
14 five ratings for school districts. There are four ratings
15 for schools.

16 MR. DURHAM: Thank you very much. Thank
17 you.

18 MADAM CHAIR: Thank you. Any other
19 comments? Is there a motion? Angelika?

20 MS. SCHROEDER: I move to approve the
21 Colorado Elementary and Secondary Education Act Flexibility
22 Waiver renewal request, submitted by staff.

23 MADAM CHAIR: Is there a second?

24 MS. FLORES: I second it.



1 MADAM CHAIR: Seconded by Val. Any
2 discussion? Any disagreement? Okay, then call the roll,
3 please.
4 MS. BURDSALL: Steve Durham.
5 MR. DURHAM: Aye.
6 MS. BURDSALL: Dr. Flores.
7 MS. FLORES: Aye.
8 MS. BURDSALL: Jane Goff.
9 MS. GOFF: Aye.
10 MS. BURDSALL: Pam Mazanec.
11 MS. MAZANEC: Aye.
12 MS. BURDSALL: Marcia Neal.
13 MADAM CHAIR: Aye.
14 MS. BURDSALL: Dr. Scheffel.
15 MS. SCHEFFEL: No.
16 MS. BURDSALL: Dr. Schroeder.
17 MS. SCHROEDER: Aye.
18 MADAM CHAIR: Thank you. The motion carries
19 6-1.
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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.

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

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