



Colorado State Board of Education

TRANSCRIPT OF PROCEEDINGS
BEFORE THE
COLORADO DEPARTMENT OF EDUCATION COMMISSION
DENVER, COLORADO
November 12, 2014, Part 3

BE IT REMEMBERED THAT on November 12, 2014,
the above-entitled meeting was conducted at the Colorado
Department of Education, before the following Board Members:

Paul Lundeen (R), Chairman
Marcia Neal (R), Vice Chairman
Elaine Gantz Berman (D)
Jane Goff (D)
Debora Scheffel (R)
Angelika Schroeder (D)



1 CHAIRMAN LUNDEEN: All right. So the State
2 Board will come back to order. We're going to jump out of
3 order at this point and I would request that Board members
4 very quickly prepare and -- and present their member
5 reports to the extent that they might exist. And who
6 would like to go first?

7 MS. SCHROEDER: I'll go.

8 CHAIRMAN LUNDEEN: Angelika --

9 MS. NEAL: Angelika will.

10 MS. SCHROEDER: So this will be very quick.
11 The two most significant events I participated in were all
12 in one week. The first two days were the educator
13 effectiveness group that I've been participating with for
14 the -- since 2010. This was the eleventh meeting that we
15 had. The most enlightening presentation we had was again
16 further research that's being done on the MET study data
17 and what they're finding on educator evaluation in terms
18 of the tales of the spread of effective teachers. There
19 aren't that many very poor teachers. There aren't that
20 many very effective teachers. The big bunch in the middle
21 are kind of all over the place and they vary back and
22 forth dramatically from year to year. So very -- some
23 very interesting studies being done.

24 The rest -- the next four days of that week

25 --



1 MS. NEAL: Thank you, dear.

2 MS. SCHROEDER: -- a number of us attended
3 the NASBE conference, and I'll let Jane talk more about
4 that since she was our -- our leader. But we did have
5 some reports on what are really the assessments we need
6 and it made me realize that all the discussions we're
7 having about testing are probably not the best discussions
8 we can be having at this point. We shouldn't make too
9 many decisions 'cause the -- the assessments themselves
10 may very likely not be what we most want for our kids. It
11 was -- it was really enlightening.

12 Linda Dowling Hammond gave each of us a
13 book, which I -- on assessment -- which I've not had a
14 chance to read yet. Thank you.

15 CHAIRMAN LUNDEEN: Did you have to be
16 present to get the book?

17 UNIDENTIFIED VOICE: I think it helped.

18 UNIDENTIFIED VOICE: What's the name of it?

19 UNIDENTIFIED VOICE: What was the name of
20 it? I was looking at it last night. Can't remember.

21 UNIDENTIFIED VOICE: They ran out. I
22 didn't get one.

23 UNIDENTIFIED VOICE: They did?

24 UNIDENTIFIED VOICE: Yeah. It's okay.

25 MS. NEAL: Well, I can make a stab at it if



1 you want.

2 CHAIRMAN LUNDEEN: Member (indiscernible)
3 we'll let Elaine go and then --

4 MS. NEAL: Oh, Elaine.

5 MS. BERMAN: No, Marcia can go.

6 MS. NEAL: No, that's all right. We're so
7 friendly today. 'Cause I haven't -- I --

8 UNIDENTIFIED VOICE: That could end at any
9 moment.

10 MS. NEAL: Two or three things. I attended
11 a western slope superintendent's meeting in Grand Junction
12 which is always one of my very favorite things because
13 they're just a great group and -- and we have a good time.
14 Cocktail parties and all, you know, but it was -- it was a
15 great -- but they were -- they were very outspoken and
16 very, you know, when you talk about assessments that was -
17 -

18 UNIDENTIFIED VOICE: Yep, yep.

19 MS. NEAL: -- what Mark Mikhail was saying,
20 you know, we need to be aware that that's not just coming
21 from him, that they were very adamant about their concerns
22 about the assessment, the size and capabilities of the
23 districts and all of that sort of thing so it was a great
24 meeting.

25 Then I -- I didn't attend, but we had a



1 12.02 group that came to Grand Junction. I -- this --
2 this was like three or four days before this so I -- I
3 ended up not attending which was probably a good thing
4 because there were like 350 people in a, you know, fairly
5 small room and of course they -- they all wanted to
6 testify and their mode of operation is to put people at a
7 table and give them questions and have them discuss it and
8 then -- and so I -- because I wasn't there and I was sort
9 of glad that I didn't go. I don't know how happy they
10 were with it, but there was again intense interest in this
11 subject. I will be very curious to see how it comes out
12 when they report to the legislature in January. I think
13 it's, you know, it's going to be very important and may
14 drive some decisions that we make down the road.

15 So that -- other than campaigning and
16 breaking my arm and a few things like that that was --

17 UNIDENTIFIED VOICE: Did you break your
18 arm?

19 MS. NEAL: I didn't break my arm, I broke
20 my hand, the back of my hand and a few things like that.
21 I did that by the way on Monday night before election. So
22 Tuesday I'm like, yeah, you know, my arm and everything.
23 And quite frankly at 5:00 in the afternoon, I'm going I
24 really don't care. But when they started coming in and,
25 you now, I was happy, so. It was sort of a wild week for



1 me, but anyway that was --

2 UNIDENTIFIED VOICE: (indiscernible)

3 UNIDENTIFIED VOICE: Laughter is the best
4 medicine, but -- but lost of votes is the best salve to a
5 broken hand.

6 MS. NEAL: The best revenge.

7 UNIDENTIFIED VOICE: (indiscernible)

8 CHAIRMAN LUNDEEN: Elaine.

9 MS. BERMAN: A number of highlights. I
10 would say one of -- one of the most fun highlights was I
11 was texting the chair of the Board on election night and
12 the text -- the texts were changing and my first text was
13 congratulating him when we all thought that he was going
14 to be in the majority in the House. And I was feeling
15 very sad, but I was very nice and I congratulated Paul,
16 but then I waited a couple of days and then I sent another
17 text to him and I said I guess I didn't have enough
18 confidence in my own party. So anyway, we had a -- we had
19 a good time going back and forth.

20 Last night, I -- I moderated a panel on
21 common core and assessments, and I'm sorry if you don't
22 know about it. It was put on by the School of Public
23 Affairs --

24 MS. NEAL: I saw something about it --

25 MS. BERMAN: Oh good.



1 MS. NEAL: Yeah.

2 MS. BERMAN: Oh good 'cause I know Angelika
3 was going to come, but the weather kept her away. And we
4 had our very own Jill Holly on the -- on the panel. We
5 had the new CAO, chief academic officer, from JeffCo who
6 had come from Douglas County. We had a math teacher and
7 we had Bill Kurtz who's the head of DSST. And I thought
8 it was a really good panel. Jill did a great job. You
9 probably handled more questions than anybody else 'cause
10 you were the right person to handle the questions --

11 MS. NEAL: Well attended?

12 MS. BERMAN: Given the evening --

13 UNIDENTIFIED VOICE: The weather.

14 MS. BERMAN: -- I was shocked --

15 MS. NEAL: Yeah, given the weather.

16 MS. BERMAN: -- how many people came.

17 Yeah. I mean, it wasn't packed, but it was full. And,
18 you know, people had all sorts of questions and statements
19 and speeches and it was -- it was very good so thank you,
20 Jill.

21 UNIDENTIFIED VOICE: Thank you.

22 MS. BERMAN: Almost done. Almost done --

23 UNIDENTIFIED VOICE: (indiscernible)

24 MS. BERMAN: And the last thing is I --

25 Jane -- this was Jane's -- the end of her term as



1 president of NASBE and she gave a very, very gracious
2 speech when she was kind of passing the gavel. And she
3 really did a remarkable job, and I'm sorry that all the
4 Board members couldn't have been there to hear her and
5 support her and cheer her on, but -- and I was going to
6 bring you flowers, but the flowers would've died going
7 from the florist into my car into here, but pretend you
8 have flowers --

9 UNIDENTIFIED VOICE: Okay.

10 MS. BERMAN: -- 'cause I just want to
11 really thank you for the roll that you played.

12 (Applause)

13 MS. NEAL: (indiscernible) can't do that
14 either.

15 UNIDENTIFIED VOICE: I know.

16 UNIDENTIFIED VOICE: Yeah, I -- that's
17 another point in the column about how we really don't
18 realize how fast time goes until it's gone and -- I'm not
19 crying, I'm just blowing my nose, but thank you. That's
20 very nice. It was delightful. I was very, very happy and
21 proud that a lot of our Board members were able to attend
22 and we're still going to get Pam to -- to help her break
23 free some time so she can attend some NASBE things. But
24 Paul, thank you, here I will thank you in public for
25 taking the time and making the drive and even though the



1 weather was much better --

2 CHAIRMAN LUNDEEN: Oh, it was a beautiful
3 morning.

4 UNIDENTIFIED VOICE: -- than it is now to
5 make that trip up to Westminster, Paul made an opening
6 comment set of remarks that were really showed how
7 gracious and good of a state we have and I appreciate that
8 very much.

9 CHAIRMAN LUNDEEN: Our pleasure.

10 UNIDENTIFIED VOICE: Marcia was able to
11 attend part of the time, and Thursday -- it doesn't matter
12 --

13 MS. NEAL: Yeah, just that one day, but it
14 was well worthwhile for the day.

15 UNIDENTIFIED VOICE: But the sessions that
16 you there at. Debora was able to attend the data privacy
17 sessions that NASBE has been working on and the work
18 NASBE's been doing in conjunction with our -- our -- our
19 liaison firm that's in D.C. who works on a lot of these
20 issues and Elaine and her connection with the government
21 affairs committee of NASBE has made a lot of our ability
22 not only as a state, but as -- as the national
23 organization to move some things together and really put
24 us -- put us in a spot where we have some great influence
25 about how things transpire. So I'm very proud of NASBE



1 right now and I'm very proud of Colorado's role in
2 influence for the positive in NASBE's course of light and
3 that was great.

4 We had good sessions. Haven't seen the
5 final evaluations yet, but we expect they will be for the
6 most part complimentary. We've all learned when you're a
7 State Board member, you learn that feedback every now and
8 then let's narrow it down to what is it they're really,
9 really saying. So some of the negatives were the
10 location, and life presents challenges when it comes to
11 planning big meetings and, you know, with -- on the one
12 hand, there were people understandably who said, gosh, it
13 would've been nice if we'd been able to be in downtown
14 Denver and, yes. And yes, that's true, but it didn't work
15 out that way. So we -- we had a great time overall and
16 thank you all for your participation.

17 Angelika and I -- I have heard Paul's --
18 and thank you for your response about study group
19 participation. We are still looking. Until the end of
20 the month of November, NASBE's accepting names if you'd
21 like -- have an interest in serving on one of the two
22 study groups for NASBE.

23 One -- oh, gosh, I knew I'd have to
24 remember what they're called --

25 UNIDENTIFIED VOICE: One is career



1 readiness.

2 UNIDENTIFIED VOICE: One's is on -- one's
3 on leadership --

4 UNIDENTIFIED VOICE: The other one's on --

5 UNIDENTIFIED VOICE: -- leadership of the
6 policymaker type and (indiscernible) organizational and
7 build -- and school building, too, there's -- there's a
8 lot of overlap in what NASBE's looking at and what we're
9 looking at here. The other one is --

10 UNIDENTIFIED VOICE: Career readiness --

11 UNIDENTIFIED VOICE: -- career readiness,
12 general topic. There's a lot of conversation at the NASBE
13 level now about making sure we are career readiness and
14 civic education. Involvement -- engagement at that level,
15 not only engagement of students in their learning in their
16 -- their life, but bringing it out to the society levels
17 so that they are -- we talk about that quite a bit. So
18 that's NASBE. I had -- during that time we had a pre-day
19 where it was -- was really -- really enjoyable trip to
20 visit the STEM school in Adams 12. So having that school
21 in my -- my own district and then very -- very near to the
22 work we're doing here and having our State Board members
23 from the across be able to see a lot of what goes on -- a
24 little bit of what goes on in our schools. I have heard a
25 lot of feedback from State Board members as they went back



1 that they have already presented the notion starting to
2 promote, move along, nurture some of this kind of STEM
3 experience in their own states and districts.

4 I'll quit with this remark. It's another -
5 - that's another example of those of us who -- who are
6 lucky enough to work here, do our jobs here, be involved
7 in the -- in the work of the State. When you're in the
8 middle of doing great things, you generally don't notice
9 what you're doing like other people do. And at the end of
10 that conference, I had more than two handfuls of people as
11 they were leaving say this -- Colorado is every -- you do
12 know that everybody looks at Colorado and what you're
13 doing. Yeah, beginning to sink in a little bit. So what
14 -- what we do here makes a difference in how people look
15 at making their own way around (indiscernible) so, but
16 thank you all again.

17 UNIDENTIFIED VOICE: Thank you.

18 CHAIRMAN LUNDEEN: Thank you, Jane.

19 Pam.

20 MS. MANAZEC: Well, I did find time to go
21 to a Veteran appreciation's assembly (indiscernible) which
22 they've been doing for like 13 years now. And I wasn't
23 aware of it. It was apparently right after my kids were
24 done at Larkspur Elementary, but they bring in community
25 Veterans and it was really quite moving. They presented



1 the colors. They also folded a flag and talked with
2 children what each fold of the flag meant. And then
3 Veterans in the audience stood up and spoke and I'd say
4 most of 'em were kind of teary. And it was -- and the --
5 and the kids, you know, I've been to some other assemblies
6 at Larkspur Elementary where the -- the kindergarteners
7 and the first graders in particular have a little trouble,
8 you know, staying clam and paying attention, but I was
9 really impressed that these kids were really listening to
10 these Veterans speaking about their service. And of
11 course most of them talked about friends and buddies who
12 didn't come home from -- from war.

13 So it was just a really lovely -- they're
14 talking about doing even more with this next year 'cause
15 apparently some of the older students like the sixth
16 graders are asking about joining the military. There's
17 some interest in the military or civilian work for the
18 military so they're -- and -- and they prepare the kids
19 for this Veterans celebration by explaining to them what a
20 Veteran is and talking
21 about military service, et cetera, et cetera, and the
22 history of Veteran's Day. So they're going to try to
23 expand it even more and I'm going to do what I can to help
24 them get some more community and some more Veterans in
25 there. I think it's wonderful to see that in -- in the



1 schools.

2 CHAIRMAN LUNDEEN: Thank you, Pam.

3 Dr. Scheffel.

4 MS. SHEFFEL: Yeah, I'd just like to say,
5 too, that I appreciated NASBE. I was able to go to the
6 data privacy, not the main conference, but it was good --
7 good materials and just really helpful. Very thoughtful -
8 -

9 UNIDENTIFIED VOICE: It was really good,
10 wasn't it? I thought that was an excellent --

11 MS. SHEFFEL: Deep discussion. Yeah, I
12 appreciated it. And then I was able to meet with a
13 gentleman from the Navy league related to what you said,
14 Pam, the regional director and same issue. They're trying
15 to get into schools when I was on the Carl Vincent carrier
16 last spring. One of the purposes of that is to look at
17 all the STEM jobs available for high school kids and then
18 for students in colleges as well with math background,
19 engineering background. And so their goal is they have a
20 hard time getting into schools just to make known the job
21 opportunities that kids have, either as exiting high
22 school students or exiting college students. So that was
23 interesting in trying to work with them to see how they
24 can get their message out, but in the wake of Veteran's
25 Day, it was a great meeting, so thanks.



1 CHAIRMAN LUNDEEN: Madam Vice Chair for --
2 for the comments. Did I skip you, Angelika?

3 MS. SCHROEDER: No, but I just thought of
4 something else.

5 CHAIRMAN LUNDEEN: Another thought. Okay.

6 MS. NEAL: (indiscernible)

7 MS. SCHROEDER: I guess I wanted to thank
8 Elaine for the social event that we had at the NASBE
9 conference --

10 UNIDENTIFIED VOICE: Oh.

11 MS. SCHROEDER: -- we were bussed to the
12 Colorado Museum of History and had a really great
13 presentation on their race exhibit that I would recommend
14 to anybody and everybody. I think it's a very well done
15 exhibit. And I had Board members on Saturday saying this
16 has been a great conference, I will especially remember
17 that exhibit last night. I think it made a huge
18 difference (indiscernible) that's a really great exhibit.

19 UNIDENTIFIED VOICE: Yeah, I got a lot of
20 positive feedback on that.

21 MS. SCHROEDER: Yeah, we did, too.

22 UNIDENTIFIED VOICE: That was the history,
23 not the nature and science, but the history --

24 MS. SCHROEDER: Colorado History Museum.

25 UNIDENTIFIED VOICE: Yeah.



1 MS. SCHROEDER: Right? Is that the right -

2 -

3 UNIDENTIFIED VOICE: Down on Broadway.

4 MS. SCHROEDER: Yeah. It's a neat museum
5 anyway, but that's just a really great exhibit. It was
6 MC'd by the Dave --

7 UNIDENTIFIED VOICE: Dave Fulton.

8 MS. SCHROEDER: -- Fulton from the facing
9 history in ourselves program. It was very, very well done
10 so thanks for doing that.

11 MS. NEAL: Speaking of that made me -- if I
12 could add a P.S. I have (indiscernible) the whole history
13 discussion became prevalent, particularly beginning last
14 year in the legislature when they had the bill to drop
15 social studies. Did you remember that? There -- there's
16 a ad hoc group or whatever of social studies people,
17 economists, geography, history, who have -- they just --
18 they had worked together before when we were adopting the
19 standards. They just reconstituted themselves and I have
20 been -- I'm on their mailing list. I'm not really -- you
21 know, could ad hoc. I have been so impressed with those
22 people they have just done a lot of work. And it will be
23 around when the 12.02 comes there will be -- now, the
24 things about dropping twelfth, i don't think that's a
25 problem, but I know they're going to be very strong for



1 including the CMAS in the lower grades. But I've been so
2 impressed with the history museum, you know, Robert
3 Clinton with the economics and that -- what's his name --
4 Chris Welnicki (ph).

5 UNIDENTIFIED VOICE: Oh, yeah. Uh-huh.

6 MS. NEAL: Yeah, he was here --

7 UNIDENTIFIED VOICE: Who came and spoke.

8 MS. NEAL: -- and they're just all workin'
9 and they have really good strong arguments to make about
10 including that in the curriculum so I'm looking forward to
11 their final report.

12 CHAIRMAN LUNDEEN: Thank you very much.
13 All -- yeah, I guess I've had the usual run of DAC
14 meetings and common core forums and whatnot over the --
15 the past month, but I'm going to as I have done in the
16 past kind of reserve this moment -- and I'll be very brief
17 so we can keep moving -- but reserve my comments really
18 more towards policy. And my -- as you know, my
19 frustration level over the box that we appear to be in as
20 a Board with regard to assessments is very, very high.
21 You know, we're --

22 MS. NEAL: No, we didn't know that, Paul.

23 CHAIRMAN LUNDEEN: Yeah, you didn't know
24 that. You know, we're in a situation now where I'm
25 hearing reports from the field as high as 60 and 70



1 percent of seniors saying, you know, not so much and I
2 think we're just going to take a pass on this test. We've
3 got districts coming -- coming before us saying, you know,
4 we're concerned we're going to have a civil rights lawsuit
5 on our hands. If we do and we're concerned, we'll have a
6 civil rights lawsuit on our hands if we don't.

7 We -- we've got in my mind--and this is
8 possibly strategically -- and since I'm kind of a guy who
9 sees the forest and sometimes really gets frustrated with
10 the trees, there is this disalignment I think from this
11 goal that we've set out as a Board of individualized
12 education of diplomas based on mastery including cap stone
13 projects and this -- this regime that appears to me to be
14 a one-size fits all standardized test. You figure out how
15 to deal with the keyboard whether you're a kindergartner
16 or not kind of environment. And -- and I -- that
17 frustrates me greatly as you all know.

18 So here's the question. As a going away
19 present for -- for Board Member Berman as she leaves the
20 Board in December and for me as well, I would ask what can
21 we as a Board at the December meeting do to feed
22 effectively into this question, this conversation at the
23 12.02 committee, so that I've got perhaps something that
24 has the authority that -- the inertia, the concern of this
25 Board whose charge and responsibility is standards and



1 assessments, although the standards and assessments and
2 meaningful ways have been taken away from us. Whose --
3 well, this Board whose responsibility and vision looks far
4 down the road, several years down the road to -- to -- to
5 talk about and think about things like diplomas based on
6 mastery, capstone projects as part of the achievement of
7 that diploma. What can we do to feed into that
8 conversation and what can I take across the street from
9 this Board to move that conversation forward?

10 So I don't have a specific ask, I don't
11 have a specific proposal to put before you, but I would
12 ask that at our December meeting that -- that we, in fact,
13 speak in a meaningful way into this -- what I will call
14 the crisis of assessment in Colorado. And the -- the
15 phrase I've been putting on -- and I would ask you to join
16 me in this phrase is we need to right size the assessments
17 in Colorado. And so if we could come together and -- and
18 develop something, bring something across, I would
19 grateful for that. So I'll end my comment with that. And
20 I see heads nodding which I'm gratified and encouraged by
21 so that's good --

22 Ms. NEAL: (indiscernible) you know,
23 December-ending conversation. Get -- layout our -- our
24 thoughts.

25 CHAIRMAN LUNDEEN: You can flick me out the



1 door with something perhaps hopeful and helpful. So with
2 that I'll say thank you for the Board member reports and
3 we'll move onto the next item on the agenda.

4 Colorado State Board of Education will now
5 conduct a public rule making hearing for the rules for the
6 -- wrong page in the script. Please excuse me --

7 MS. NEAL: (indiscernible)

8 CHAIRMAN LUNDEEN: For the rules -- make
9 sure I'm on the right thing. Where we at here? 12.02 --
10 no.

11 UNIDENTIFIED VOICE: 12.01.

12 CHAIRMAN LUNDEEN: 12.01. I went one too
13 far. For the rules for the administration -- that can't
14 be right.

15 UNIDENTIFIED VOICE: Yes, it is.

16 UNIDENTIFIED VOICE: It is.

17 MS. NEAL: It is.

18 CHAIRMAN LUNDEEN: (indiscernible)

19 turnaround leaders development?

20 UNIDENTIFIED VOICE: (indiscernible)

21 UNIDENTIFIED VOICE: (indiscernible)

22 UNIDENTIFIED VOICE: 12.01.

23 CHAIRMAN LUNDEEN: That's -- I'm --

24 MS. NEAL: 12.01, rules --

25 UNIDENTIFIED VOICE: Colorado online



1 programs.

2 CHAIRMAN LUNDEEN: I think I don't have --
3 help me out here.

4 MS. NEAL: I probably still --

5 CHAIRMAN LUNDEEN: Bring me a script.

6 UNIDENTIFIED VOICE: (indiscernible)

7 MS. NEAL: You've got 12.02, right, but not
8 12.01?

9 CHAIRMAN LUNDEEN: I've got --

10 UNIDENTIFIED VOICE: (indiscernible)

11 CHAIRMAN LUNDEEN: That is. Turnaround
12 leaders.

13 UNIDENTIFIED VOICE: (indiscernible)

14 CHAIRMAN LUNDEEN: It should be for the --

15 UNIDENTIFIED VOICE: (indiscernible)

16 CHAIRMAN LUNDEEN: Oh, I'm sorry. If I'd
17 read the right line, that would help. For the rules --
18 fourth time is a charm in this instance -- for the
19 administration, certification and oversight of Colorado
20 online programs. The sites are the same. The State Board
21 approved the notice of rulemaking at its September 10th,
22 '14 Board meeting -- and actually, you can have this back,
23 Gary. A hearing for the promulgation of these rules was
24 made known through publication -- thank you very much --
25 on September 25th, '14 through the Colorado registry and



1 by the State Board notice on -- I'm sorry -- November 5th,
2 2014.

3 The State Board is authorized to promulgate
4 these rules pursuant to Article 9, Section 1 of the
5 Colorado Constitution and Section 22-2-106-1(a) and (c) of
6 the Colorado revised statutes as well as House Bill
7 14.1382.

8 Mr. Commissioner.

9 UNIDENTIFIED VOICE: Thank you very much,
10 Mr. Chair. Before I turn it over to staff, you -- we
11 received past the deadlines -- which happens, okay, from
12 the Colorado Cyberschool Association some additional
13 comments. Staff has tried to do everything possible to
14 look at that to see if we could accommodate the request
15 that was submitted and -- and basically have agreed with
16 that. We'll go into more detail, but as a result of that
17 and the feedback that we received, and we -- we don't
18 normally like to do this to confuse you, but we have
19 modified what has been submitted to you. We believe to
20 incorporate the recommendations that we have received from
21 the Cyberschool Association, what we can agree with, and I
22 think in general, we do -- we do agree.

23 But anyway, we'll go into that. I will
24 turn to Gretchen Morgan to start the conversation and
25 other staff are here to answer any questions. I believe



1 there's a couple people in the audience who
2 (indiscernible) Gretchen.

3 MS. MORGAN: Thank you --

4 UNIDENTIFIED VOICE: Didn't mean to steal
5 your thunder, but --

6 MS. MORGAN: No, it's fine. Thank you, Mr.
7 Commissioner.

8 And also thank you, Mr. Chairman.

9 CHAIRMAN LUNDEEN: Thank you for the
10 Christmas colors.

11 MS. MORGAN: You are welcome. That was
12 just for you.

13 CHAIRMAN LUNDEEN: Thank you very much.

14 MS. MORGAN: So I should first say that the
15 color coding is -- what is in red were changes from
16 original rule that were suggested during the emergency
17 rulemaking. Those things in green are things that we had
18 changed and submitted to you prior to this Board meeting.

19 And as a special addition on Page 6 of
20 rules -- I'm sorry, Page 4. I apologize. 2.17 in purple
21 -- I don't know what that does to our Christmas theme;
22 we'll have to discuss that later -- is the addition based
23 on the request that we received from the field yesterday.
24 So just as a brief reminder, these -- these rules needed
25 to be revisited because of changes in statute. Statute



1 primarily asked us to do things. One was to update
2 definitions, and you'll see that that resulted in a lot of
3 green line through here which is really just changing of
4 terms throughout the document to align with definitions.
5 And secondly, it asked us to describe the process by which
6 authorizers of online schools would establish their
7 processes for documenting student count in their online
8 schools. And we had brought a version of that for
9 emergency rules that allowed them to choose between
10 existing rule language or to create their own. Now this
11 removing the old language and just having the parameters
12 by which they establish their own because that's really
13 what statute is asking us to do.

14 So that is I think the context for the
15 rules. I know we have a couple people signed up who'd
16 like to speak so maybe they could do that now and then you
17 could ask questions.

18 CHAIRMAN LUNDEEN: Okay. Sign-up sheet is
19 coming this way. While it comes this way and I call the
20 first person to the podium, I will give the standard
21 instructions we give. Please step to the microphone,
22 state your name, state the organization that you
23 represent, if you represent and organization. If you
24 don't, please tell us where you're from. And limit your
25 comments to three minutes. Thank you very much.



1 The first speaker, Heather O'Mara.

2 MS. O'MARA: I go by -- I go by either one.
3 Hi, I'm Heather. I'm Heather O'Mara from Hope Online.
4 I'm actually here representing the Colorado Cyberschools -
5 - schools association so thank you, Mr. Chair, Members of
6 Board.

7 And really, I was going to read our letter
8 and explain some of the reasons why we suggest the change,
9 but I'm really here to thank the staff and CDE for making
10 significance in our opinion on -- from the emergency rules
11 to the permanent rules, and taking this last suggestion in
12 2017. So thank you all very much and it's been great
13 working with you. Is there any questions for me?

14 CHAIRMAN LUNDEEN: Yeah. I'd ask a
15 question and I'm just going to throw it to the room.
16 Staff can jump in on it if they want. My concern is I was
17 kind of working through this is I have a great
18 relationship with Amazon and I have a great relationship
19 with Barnes and Noble, but I interact differently in each
20 environment and just making sure that the rules
21 acknowledge the fact that there's a difference in those
22 relationships is important. Specifically, you know, the
23 contact piece being defined as contact appropriate to the
24 environment and the relationship. So as long as we're
25 satisfied we're getting to that, that -- that was my



1 conceptual question and I don't have specific words that I
2 would put to that. So that is in the nature of a
3 question, please answer.

4 Heather.

5 MS. O'MARA: I think that the definition of
6 teacher-pupil contact and teacher-pupil instruction and
7 giving that to the school to work through with the local
8 board or their school district gives the flexibility
9 that's necessary to reflect whatever program it is,
10 whether it's a program that's currently in existence or
11 one that's innovated and is added later. I think it makes
12 the rules more evergreen.

13 UNIDENTIFIED VOICE: I think that was the
14 question really of the feedback that they brought and
15 having brought in the language from school finance rules
16 and here --

17 CHAIRMAN LUNDEEN: (indiscernible)

18 UNIDENTIFIED VOICE: (indiscernible)

19 clarified that (indiscernible)

20 CHAIRMAN LUNDEEN: Okay. Thank you very
21 much.

22 MS. O'MARA: Thank you.

23 MS. NEAL: Thank you, Heather.

24 CHAIRMAN LUNDEEN: Randy Dahuff (ph).

25 Welcome back to the Boardroom.



1 UNIDENTIFIED VOICE: Thank you. Randy
2 Dahuff, speaking as a former Board member who sat up there
3 with you when we did the first several versions of these
4 '09 rules. I also was going to go through a three-minute
5 explanation of why we needed to fix 'em. Thank -- thanks
6 to CDE it's not necessary. I think adding that definition
7 addresses the concerns we had and I think these rules are
8 going to help us move forward.

9 I would like to address a broader concern,
10 though, about a concern out in the field that CDE is not
11 being as innovative and supporting of innovation as they
12 have been in the past. And I think the first version of
13 these rules, they really in essence pushed online back
14 into a traditional seat-time role of counting hours of
15 instruction from a teacher to a pupil was an example of a
16 concern that's out there. So I'd encourage CDE and I'd
17 encourage the Board to take every opportunity in rules
18 when you're updating them to say how -- how can we write
19 this to really expand learning opportunities for every
20 student in Colorado beyond the traditional classroom in a
21 brick and mortar environment in -- in using seat time. I
22 just returned from my (indiscernible) the national
23 conference on blended and -- online and blended learning
24 and there's some states out there that are doing far
25 better than we are in encouraging those innovations.



1 Question of assessment came up. I'd
2 encourage you to look at New Hampshire and what they're
3 proposing and what they proposed and waiver requested the
4 Department that basically gets them out of doing the
5 standard. They're a smarter balance state. Several
6 districts would be able to just do smarter balance like
7 three times and in the interim years do different
8 district-developed assessments. So there's a lot of good
9 stuff going out there and I'd encourage you to keep your
10 ears open, but thank you for the change for this. Any
11 questions?

12 CHAIRMAN LUNDEEN: Thank you.

13 UNIDENTIFIED VOICE: I'm sorry you had to
14 drive all the way down here (indiscernible)

15 UNIDENTIFIED VOICE: That's okay.

16 UNIDENTIFIED VOICE: Good to see you,
17 though.

18 UNIDENTIFIED VOICE: It was good to be
19 back.

20 CHAIRMAN LUNDEEN: Is there anyone else
21 present that would like to speak to this issue? Okay.
22 Hearing -- seeing no one, I would ask if there are other
23 questions or comments from members of the Board.

24 Please, go ahead.

25 UNIDENTIFIED VOICE: So I'm very pleased



1 that we are actually -- contrary to what Randy said, that
2 we are putting some -- I don't want to say boundaries, but
3 certainly some expectations on this sort of education.
4 And it should be innovative. I personally continue to be
5 troubled when we compare ourselves to other states by the
6 lack of technology available to our kids and our speaker
7 this morning I think clarified that for me.

8 What he sees as a civil rights issue is
9 that we're not giving tests on paper and what I see as a
10 civil rights or whatever issue you want to call is that
11 we're not providing the kind of tools that kids should be
12 getting in the twenty-first century. And we're going to
13 be struggling with all of these things until we are able
14 to provide for our kids what other states are providing,
15 which is that they have the technology, they have the
16 opportunities for an expanded day, they have the -- more
17 opportunities for blended learning than -- than our kids
18 have today. So I'm happy to see that we're continuing to
19 have these programs available, but I really feel that
20 we're so far behind from what I hear in other states.

21 This morning on the news, they were talking
22 about the snow in Michigan and the fact that -- at least
23 it's a private school, but still -- there are no snow
24 days. You don't need -- you don't need to have snow days
25 because you can do your work online if your kids and your



1 schools have the capacity that we need. We have a huge --
2 in my opinion, we have a huge capacity issue and that's
3 part of -- part of the problem we have and a lot of areas
4 where we're kind of frustrated. So I'm glad about this
5 and I hope that we gain -- gain greater confidence in our
6 online work because I know there's some real negative
7 perceptions out there about achievement in online programs
8 and I think we can fix that and this might actually help,
9 but we also need to provide that opportunity for more
10 students. Thanks.

11 CHAIRMAN LUNDEEN: Fair enough. A point of
12 process. I believe this was originally on the agenda not
13 as an action item, but if we're unanimous then we have the
14 ability to pass this through today.

15 UNIDENTIFIED VOICE: That's correct.

16 CHAIRMAN LUNDEEN: Okay. So if there are
17 no further questions and there's an appetite for a motion,
18 I would ask for it.

19 MS. NEAL: Mr. Chair, I move to approve the
20 rules for the administration certification on oversight of
21 Colorado online programs.

22 CHAIRMAN LUNDEEN: Is there a second? Jane
23 second, Deb (inaudible) second. Is there any opposition?
24 Hearing none, motion carries. Thank you very much.

25 UNIDENTIFIED VOICE: That was easy.



1 CHAIRMAN LUNDEEN: Please.

2 UNIDENTIFIED VOICE: Just -- just a
3 comment, and Mr. Dahoff had a very good point. What
4 probably some people don't wear -- are not aware, but
5 we're just in the midst of that, we've been asked to join
6 the Innovation Lab Network, and New Hampshire is part of
7 that along with just a few other states and we're very
8 well aware of what they're doing.

9 In fact, it's very supportive of where we
10 want to go into the future and much when we held that
11 event at the Colorado History Museum, I -- not so sure
12 anybody -- you were able to attend, but it's really inline
13 with where we want to see assessment and everything go in
14 the future. You know, we're -- we're in this terrible
15 awkward -- I don't want to say terrible -- this very
16 awkward situation right now where we know things need to
17 change and where they need to do.

18 We're -- we agree with New Hampshire. New
19 Hampshire we've been closely involved with him as they
20 worked with the Department. The Department's not quite as
21 receptive or they're not there yet. We're -- we're -- I
22 just want to let the Board know we're part of that and as
23 we go forward because we realize and that Rebecca and
24 Gretchen, you know, I compliment them on the work that
25 they're doing in innovation quite frankly we are doing a



1 lot. Sometimes we don't get that out well enough, but
2 very proud we were asked to attend a meeting about three
3 weeks ago in Kentucky to be a part of the Innovation Lab
4 Network we were asked to join given what we're trying to
5 do is very much inline in trying to change things for the
6 future.

7 So all the things that we've done
8 (indiscernible) has led up to that and we're actually
9 following through with trying to work with the Department
10 to change things. They're not there yet and -- but that
11 may change in the future, but we've got -- New Hampshire
12 is helping take the lead on that. So thank you
13 (indiscernible)

14 CHAIRMAN LUNDEEN: Absolutely.

15 UNIDENTIFIED VOICE: (indiscernible)

16 CHAIRMAN LUNDEEN: Please, go ahead.

17 UNIDENTIFIED VOICE: Can you articulate the
18 infrastructure needs that we need in order to be where we
19 want? I mean, it's just frustrating that we really don't
20 talk about where -- we do talk about where we want to go,
21 I don't know that we talk enough about so what -- what are
22 some different ways to get there. I'm not sure there's
23 just one, but there certainly are some needs that we have.

24 UNIDENTIFIED VOICE: Go ahead.

25 UNIDENTIFIED VOICE: Sure, I'll touch on



1 this and -- and --

2 UNIDENTIFIED VOICE: I know this is kind of
3 out order.

4 UNIDENTIFIED VOICE: -- Gretchen may add to
5 my comments. I'll be very brief. I would say that the
6 states that are in the -- the Innovation Lab Network who
7 are I think largely regarded as either in practice or in
8 policy the states that have the most opportunity to
9 quickly move forward on twenty-first century skills and
10 the related changes in assessment accountability that that
11 really takes do tend to have more technology
12 infrastructure than we see in most of our schools.

13 The reason that they have that because
14 we've spent a lot of time talking about the fact that
15 technology for its own sake doesn't tend to change
16 learning, but the reasons that most of those states do
17 have a significant investment in technology is because
18 they are -- nearly all of them, states that have made a
19 significant shift toward competency-based learning which
20 is you know our graduation guidelines do signal and when
21 you were moving students in a competency and individual
22 mastery based way through a system, technology becomes a
23 key to how you allow every student to move at a unique
24 pace. And so you do see a significant -- significantly
25 largely number of one-to-one initiatives in those



1 districts and really even in some cases statewide.

2 Gretchen, is there anything you would want
3 to add?

4 UNIDENTIFIED VOICE: I don't think so.

5 UNIDENTIFIED VOICE: It is an issue for us.
6 We are not allowing that keep us from proceeding ahead of
7 this and keeping encouraging so we talk to legislating
8 members. We've got to address the technology issue in the
9 (indiscernible) it's critical for the future.

10 CHAIRMAN LUNDEEN: Okay. Thank you very
11 much --

12 UNIDENTIFIED VOICE: Thank you.

13 MS. NEAL: Thank you, ladies.

14 CHAIRMAN LUNDEEN: Colorado State Board of
15 Education will now conduct a public rulemaking hearing for
16 the rules of the administration of the waiver of statute
17 and rule.

18 UNIDENTIFIED VOICE: (indiscernible)

19 UNIDENTIFIED VOICE: (indiscernible)

20 CHAIRMAN LUNDEEN: We voted unanimous.

21 UNIDENTIFIED VOICE: It's all right.

22 CHAIRMAN LUNDEEN: You're all free.

23 UNIDENTIFIED VOICE: (indiscernible)

24 UNIDENTIFIED VOICE: Thank you.

25 UNIDENTIFIED VOICE: (indiscernible)



1 UNIDENTIFIED VOICE: I'm not the only --

2 CHAIRMAN LUNDEEN: That -- see, you had to
3 object. That was an opt-out.

4 UNIDENTIFIED VOICE: Oh, it was a
5 (indiscernible)

6 CHAIRMAN LUNDEEN: There was no opt-in on
7 that.

8 UNIDENTIFIED VOICE: I feel better.

9 CHAIRMAN LUNDEEN: Continuing on here.
10 Item 12 -- 12.02. The State Board approved the notice of
11 rulemaking at its September 10th, 2014 Board meeting. The
12 hearing to promulgate these rules was made known through
13 publication of a public notice on September 25th, 2014,
14 through the Colorado Register and by the State Board
15 notice on November 5th, 2014. State Board is authorized
16 to promulgate these rules pursuant to 22-3.5-104 through
17 106 and 22-30.5-507 Colorado revised statutes and HB
18 14.1292.

19 Mr. Commissioner.

20 UNIDENTIFIED VOICE: Thank you very much.
21 I'm going to go ahead and turn this over to Gretchen
22 Morgan and take it from there. Thank you.

23 CHAIRMAN LUNDEEN: Just a moment.

24 UNIDENTIFIED VOICE: (indiscernible)

25 MS. MORGAN: So as you probably recall from



1 the notice, there was a change in statute that changed the
2 definition of what it means to be an automatic waiver. So
3 previously, an automatic waiver was one that this Board
4 granted CDE staff the authority to give based on review of
5 replacement plans (indiscernible) this change in statute
6 means that automatic waivers are instead truly automatic
7 which means that as soon as there is a charter school that
8 has a charter contract, these waivers are given to them.
9 So it eliminates any process between either CDE and the
10 schools and districts or you and the schools and districts
11 for this list of automatic waivers.

12 This, of course, requires that we revisit
13 what is the list of automatic waivers and the statute also
14 changed to some extent the parameters around which could
15 be made automatic largely based on the desire to not cause
16 confusion. And so we have in front of you a list of
17 suggested automatic waivers which came to us through
18 (inaudible) process of community input so the Colorado
19 League of Charter Schools -- Ann is here somewhere
20 (indiscernible) he runs their legislative affairs
21 committee and their committee met twice to talk about what
22 should be the list of waivers that would be brought to you
23 for approval as automatic waivers. And we took their
24 suggestions and then we turned their suggestions into
25 surveys which we and CSI distributed to people to ask for



1 further feedback on what had been suggested. And the
2 overwhelming feedback was, yes, I would like that
3 particular item to be included in the list. I think we
4 had, you know, 90 percent or more positive responses for
5 each of the items included in this waiver list. So -- so
6 we're bringing this to you feeling like we've gotten
7 (indiscernible) input from the field and asking you to
8 talk a look at this list of waivers and see if you were
9 comfortable saying this could be automatically in the true
10 sense -- automatically granted to charter schools.

11 CHAIRMAN LUNDEEN: Questions.

12 UNIDENTIFIED VOICE: Yeah, can you review
13 the list with us?

14 UNIDENTIFIED VOICE: Sure. They're in Page
15 4 of the rules. So essentially -- I'll just read through
16 the list if you'd like. There's -- there's a brief
17 description of each here. So local board duties
18 concerning competitive bidding, local board duties
19 concerning selection of staff and pay, determining
20 teacher-pupil contact hours, which is not the same as
21 minimum attendance requirements, determine educational
22 program and prescribed textbooks, local board powers to
23 terminate employment of personnel, local board duties to
24 reimburse employees for expenses, local board powers to
25 pick your life, health or accident insurance, local board



1 powers policies relating to the in-service training and
2 official conduct of staff, local board powers accepting
3 gifts, donations and grants, local board powers employee
4 teachers' aides and other non-certified personnel,
5 employment and authority of principals, compulsory school
6 attendance which is just the portion about it that is the
7 attendance policies and excused absences to give them the
8 ability to establish their own policies for those things
9 under the State law. Teacher Employment Act grounds for
10 dismissal, Teacher Employment Act procedures for
11 dismissal, Teacher Employment Act, teacher's subject to
12 adopted salary schedule. Teacher Employment Act,
13 certified required to pay -- certificate required to pay
14 teachers, which I'm sure you all understand is very
15 frequent waiver because they're allowed that flexibility
16 with charter schools. Teacher Employment Act describes
17 payment of salaries and then school year national
18 (indiscernible)

19 UNIDENTIFIED VOICE: So those are the
20 automatic waivers?

21 UNIDENTIFIED VOICE: Those are the ones
22 that would be automatic which means they would not go to
23 us or to you anymore. All other things charter schools
24 still would bring to you in the process that exists. That
25 part of the rules has not changed at all, that when they



1 want to waiver something not in this list, they submit a
2 replacement plan to staff, we organize that, we bring that
3 to you in a (indiscernible) submission and you vote on
4 those other waivers.

5 CHAIRMAN LUNDEEN: Other questions?

6 Dr. Scheffel, go ahead.

7 MS. SHEFFEL: Yes, I have a question about
8 3.01(d) and 3.01 I guess I. What about that one,
9 determining education program and prescribed textbooks?

10 UNIDENTIFIED VOICE: What does it mean to
11 get that waiver, is that your question?

12 MS. SHEFFEL: Right. I mean, 'cause I
13 guess I -- I am concerned about kind of high jacking of
14 charter schools at times for political purpose where
15 people are teaching whatever in charter schools. And of
16 course they're -- they're linked to the -- or they're tied
17 to the standards, right? I mean, where's the safety valve
18 there for what's being taught in charter schools?

19 UNIDENTIFIED VOICE: So charter schools are
20 accountable to the State standards just like every other
21 school. This particular policy is written originally to
22 give authority to districts to determine their program in
23 textbooks and by giving charters waiver to it, we're
24 allowing charters to make that decision themselves which
25 is very commonly --



1 UNIDENTIFIED VOICE: Wouldn't they anyway,
2 right? I mean, we don't decide that for any other schools
3 so I mean I'm -- I'm confused as to why it would be on
4 this --

5 UNIDENTIFIED VOICE: Why they need the
6 waiver? They -- usually charter schools ask for a waiver
7 from district policy in this area and then also ask us for
8 the same waiver. And to be totally honest, I think a
9 charter school could if just given local policy waiver
10 from the district policies or on textbooks and things
11 could make those choices.

12 I think historically charters have sought
13 waivers to State law just as a way to offer them some more
14 stability in their contract relationship with their
15 authorizer. So by having a waiver to the State law, which
16 is renewed we know with their contract, it just is sort of
17 more security for them than having waived just the local
18 policy. In effect, I don't think it grants them anymore
19 flexibility than they would have just from having waived
20 their local policy on that matter.

21 UNIDENTIFIED VOICE: So what -- what does
22 determine what gets taught in charter schools? Just
23 linking to the standards, the fact that they're
24 accountable for the assessments --

25 UNIDENTIFIED VOICE: They link to the



1 standards, are accountable to the assessments and they're
2 accountable to the academic program they describe in their
3 charter application. So charter schools have to provide a
4 very lengthy description of what they need to offer as an
5 academic program and they're accountable to their
6 authorizers, whether the district or CSI, for implementing
7 that program and the way that they describe it. And if
8 they seek to make changes to that they have to make
9 changes to that through communication and contract
10 agreements or augmentation in their district.

11 UNIDENTIFIED VOICE: Interesting.

12 CHAIRMAN LUNDEEN: Was there a second one,
13 Deb?

14 MS. SHEFFEL: Yeah. And the other one is
15 gifts, grants and donations. What's the waiver there? In
16 other words, they can't -- they didn't used to be able to
17 take gifts, grants and donations without being accountable
18 to it and now they can --

19 UNIDENTIFIED VOICE: (indiscernible)

20 MS. SHEFFEL: -- if some foundation
21 somewhere --

22 UNIDENTIFIED VOICE: Uh-huh.

23 MS. SHEFFEL: -- wants to give them a gift,
24 now there's no oversight over that?

25 UNIDENTIFIED VOICE: I think it actually is



1 just delegating the authority to them so this is an
2 authority given to local school boards and them -- the
3 charter school having a waiver of it means that the
4 charter school board then has that authority. So many of
5 the waivers that we give charter schools frequently are
6 that kind of waiver where there's some permission given to
7 local districts and statute and charter schools seek a
8 waiver to that so that their Board can accept that
9 responsibility, and I think this is one of those where it
10 just offered that responsibility to the charter board
11 rather than the local school board.

12 CHAIRMAN LUNDEEN: Jane.

13 MS. GOFF: Yes. Is there -- I know I -- I
14 look at it all the time. I'm -- I was just checking to
15 see if they're in here. Is there a list of the waivers
16 that are not -- they're not waivable (sic) somewhere?
17 Thank you. I have another clarification I think. At what
18 point does CDE see a charter school application? Is that
19 automatically done at the very beginning or does it go to
20 the local board, whether it's a -- whether it's a CSI
21 school or whether it's a local district, who's the
22 authorizer? Does CDE see these applications first out of
23 the shoot?

24 UNIDENTIFIED VOICE: Mr. Chair.

25 CHAIRMAN LUNDEEN: Please.



1 UNIDENTIFIED VOICE: So applications go to
2 the authorizer first --

3 MS. GOFF: Okay.

4 UNIDENTIFIED VOICE: -- the local district
5 or CSI. It goes through an approval process there that
6 includes their board approving that charter. And then we
7 would see it only when they submit to ask for waivers if
8 they do. Not all charter schools do that, but on that
9 circumstance, we would see it. The other circumstance in
10 which we would see the charter contract is if they apply
11 for federal startup funds.

12 MS. GOFF: Right. So that partially
13 answers my question because there's a -- there's a little
14 confusion out in our -- one of our favorite school
15 districts about the timeline of this. At what point is
16 the replacement plan for a waiver due I guess? I mean,
17 does -- does there have to be a replacement plan outlined
18 clearly whenever it gets to the district first time and
19 when it comes to CDE if -- if necessary? Where does that
20 replacement plan have to show up before -- and can a board
21 -- can a local board say we're going to approve this
22 charter or we're going to even approve this charter on
23 condition without the replacement plan outlined? How does
24 that work?

25 UNIDENTIFIED VOICE: Mr. Chair.



1 CHAIRMAN LUNDEEN: Please, go ahead.

2 UNIDENTIFIED VOICE: So I think best
3 practice as charter authorizers is to ensure that you have
4 looked through those before the Board approving the
5 contract with the charter school. I think different
6 districts may do that differently and we wouldn't know
7 about it because we would see it after things have all
8 been signed and agreed to and send to us.

9 MS. GOFF: Okay. Thank you. This answers
10 a couple of other questions I had. Appreciate it. The
11 other -- the only other thing I would say is the -- it's
12 always worth communicating and educating and providing
13 learning opportunities, but the list of -- of things that
14 are not waivable, I'm not sure there's a real clear
15 handle out there on what those are. So I'm just -- I
16 meant I will -- I'm interested in making more of a regular
17 communications about some of our T-statutory limitations
18 frankly, so. Thank you --

19 UNIDENTIFIED VOICE: Mr. Chair, could I
20 respond that that (indiscernible)

21 CHAIRMAN LUNDEEN: Sure.

22 UNIDENTIFIED VOICE: If you'd like, we can
23 provide you with information that's on our website so it
24 would be easy for you to distribute about what are the
25 allowable and unallowable waivers 'cause I do think that



1 continues to be a point of confusion and we try very hard
2 to communicate proactively about that. But if you wanted
3 to join the effort of proactive communication, we would --

4 MS. GOFF: I -- I've already started
5 reinvigorating my own efforts about that, and thank you
6 for the offer. I -- I -- I spend quite a bit of time on
7 the website just because I want to be prepared.

8 UNIDENTIFIED VOICE: Yeah.

9 MS. GOFF: But so it's underway, but I -- I
10 appreciate -- I think that's something that maybe we would
11 all benefit from keeping in mind some of the things that
12 come up that seem to be unclear every now and then.

13 UNIDENTIFIED VOICE: Gretchen, if you could
14 forward that link to (indiscernible) then she'll forward
15 it (indiscernible)

16 UNIDENTIFIED VOICE: Will do.

17 UNIDENTIFIED VOICE: Thank you.

18 UNIDENTIFIED VOICE: Thank you.

19 CHAIRMAN LUNDEEN: Down this way.

20 Angelika.

21 MS. SCHROEDER: So this is for charter
22 schools. it does not apply for schools of innovation and
23 it does not apply to district seeking some waivers
24 themselves. I wanted to perhaps give Deb an example of
25 the gift, grants and donations issues even though it's at



1 the local level. The school board that I was on adopted a
2 policy that when families donated to their schools because
3 of the huge inequity between schools, there was actually a
4 sharing plan that was established so that there was some
5 sharing across the district, in particular to schools that
6 did not have the fundraising capacity. That's a district
7 -- that's not a State policy, it's a district policy, but
8 it's one that would not -- that a charter school would ask
9 to be away from so it's -- it's actually pretty
10 interesting as you learn more about what districts are
11 doing, what some of their policies. I don't know what
12 policies we have at the State level about grants, gifts
13 and donations, but I'm pretty clear that school boards
14 when they have a great diversity among schools, may have
15 some very different rules. Some of 'em just keep a
16 certain amount for the district administration, et cetera,
17 et cetera, and those are the kinds of things that charter
18 schools would prefer not to participate in.

19 UNIDENTIFIED VOICE: Thank you.

20 CHAIRMAN LUNDEEN: Jane.

21 MS. GOFF: So am I reading this correctly
22 that on Page 6 under 3.05, the only ones -- I'm trying to
23 find where is this -- where they still have to come to the
24 State Board and ask for waivers. Where does it describe
25 those waivers? This is what's -- so 3.05 is what's not --



1 what's not eligible for waivers at all. So where is it
2 here that shows what's still available for waiver
3 requests?

4 UNIDENTIFIED VOICE: Mr. Chair.

5 Those are not detailed here because it
6 would be a very long list. And so what's listed is just
7 what is excluded. In addition to that, other areas of
8 statute exclude things like assessment and accountability.
9 We can certainly provide that list to you if you wanted to
10 see it --

11 MS. GOFF: Well, so because it just seems
12 like 3.05 seems so incomplete, like for example, where's
13 the whole data privacy piece? That's not waivable either.
14 So how did you decide what to put in and what not to put
15 in?

16 UNIDENTIFIED VOICE: Mr. Chair.

17 These were previously existing portions of
18 the rules and we actually did revisit this section in
19 trying to respond to this change in statute.

20 UNIDENTIFIED VOICE: So it's really not
21 comprehensive, you're just working off of what existed
22 before?

23 UNIDENTIFIED VOICE: That's correct.

24 UNIDENTIFIED VOICE: (indiscernible)

25 UNIDENTIFIED VOICE: (indiscernible)



1 UNIDENTIFIED VOICE: The intention of the
2 statute was not to ask us to do that, it was to ask us to
3 revisit the automatic waiver list.

4 UNIDENTIFIED VOICE: (indiscernible)

5 UNIDENTIFIED VOICE: Okay. So --

6 UNIDENTIFIED VOICE: Yeah, that's right.

7 UNIDENTIFIED VOICE: But for the -- for the
8 -- I think this goes maybe to the communication thing for
9 the sake of how we communicate this all, we might want to
10 make it clear what's waivable, what's not waivable, 'cause
11 this -- if you just read this, it seems incomplete.

12 UNIDENTIFIED VOICE: If --

13 UNIDENTIFIED VOICE: (indiscernible)

14 UNIDENTIFIED VOICE: Well, there's a lot of
15 meat to what's not (indiscernible)

16 UNIDENTIFIED VOICE: (indiscernible)

17 CHAIRMAN LUNDEEN: Please.

18 UNIDENTIFIED VOICE: Member Berman, I think
19 the intention of the rules (indiscernible) my statute what
20 it says is these are the -- these are the things that are
21 automatically waived. You don't have to do anything.
22 Then there's statute that says these are the things that
23 are not automatically waived and can never be waived. And
24 then there are a myriad of things that if the charter
25 wants to waive them, they will have to (indiscernible).



1 So there's a category of never waived, there's a category
2 of auto -- auto waive and there -- then there's a whole
3 bunch of things, it can be anything, that if they wanted
4 to waive it, they would have to apply and (indiscernible)
5 a waiver. I don't know if that helps.

6 UNIDENTIFIED VOICE: Well, it does help,
7 but if -- but I'm not sure that's clear to the districts.
8 I mean, I know I was in one district -- in Marcia's
9 district -- where that question was, well, we're not sure
10 we're allowed to petition to be waived. So do -- does a
11 document exist that delineates exactly what you just said;
12 what you can never waive, what you automatically get
13 waivers for based on the rules that we passed today, and
14 what you will still need to come to the State Board, but
15 is waivable?

16 UNIDENTIFIED VOICE: Mr. Chair.

17 And I don't mean to --

18 UNIDENTIFIED VOICE: (indiscernible)

19 UNIDENTIFIED VOICE: (indiscernible) but I
20 think that we can -- I mean, staff can certainly prepare
21 and guide and stuff and say it says these can never be
22 waived by statute, these are automatically waived. The
23 rest of it is up to you to seek a waiver. If -- because
24 the list of what you could seek a waiver for is everything
25 --



1 UNIDENTIFIED VOICE: In the -- in the State
2 statute?

3 UNIDENTIFIED VOICE: Yeah. So that list,
4 you could not make that list.

5 UNIDENTIFIED VOICE: Well, I think --

6 UNIDENTIFIED VOICE: (indiscernible) could
7 add to that that we do have that guidance actually and I
8 think (indiscernible) updated (indiscernible)

9 UNIDENTIFIED VOICE: Okay. Well, I think
10 that would -- that would be a good start. So then my
11 second question is kind of a follow up to Angelika's
12 question or statement. And that is these are for charter
13 schools. Would innovation schools still have to now apply
14 for these waivers because they're not automatic for
15 innovation schools?

16 UNIDENTIFIED VOICE: Mr. Chair.

17 Yes, that's correct. This only applies to
18 charter schools. Innovation schools still seek waivers
19 through the process of submitting their full innovation
20 plan --

21 UNIDENTIFIED VOICE: Uh-huh.

22 UNIDENTIFIED VOICE: -- to the State for
23 review and we review that and then bring it to you for
24 approval as a Board.

25 UNIDENTIFIED VOICE: So this might be a



1 question -- I don't know who would answer this question --
2 but when the people who were promoting this legislation
3 and I don't know if it was the League of Charter Schools
4 or not, was there any discussion about innovation schools
5 and why they weren't included? What's the rationale for
6 having charters and not innovation schools?

7 UNIDENTIFIED VOICE: Mr. Chair.

8 I'm happy to defer to (indiscernible) to
9 talk about the source of the legislation, but -- but all
10 legislation that addresses charters is -- has -- has
11 always been completely separate from the -- the only piece
12 of legislation that has addressed Innovation Act and
13 those, you know, just by tradition since we've had
14 innovation schools in the last five years, have been
15 addressed through separate legislation every time.

16 CHAIRMAN LUNDEEN: Dan, step to the mic.

17 UNIDENTIFIED VOICE: Sorry, yes, Dan
18 (indiscernible) with the Colorado League of Charter
19 Schools. Yeah, I would just reiterate that this was
20 distinct from innovation. I think the intent from our
21 purposes was there are just certain waivers that are so
22 automatic that going through the -- jumping through the
23 hoops every year with every application just it made sense
24 to move them into a place where they are now, truly
25 automatic, where we don't have to go through the



1 bureaucratic hoops of submitting a replacement plan
2 review. So that was our intent, but it did not intersect
3 with the Innovation Act.

4 UNIDENTIFIED VOICE: (indiscernible) I
5 understand you're representing charter schools and there's
6 no equivalent that represents innovation schools so
7 they're out there. So then the follow-up question to you
8 two is are these the same kind of waivers that innovation
9 schools request?

10 UNIDENTIFIED VOICE: Mr. Chair --

11 CHAIRMAN LUNDEEN: Please.

12 UNIDENTIFIED VOICE: In general, there's
13 actually not a lot of overlap between these and the kind
14 of waivers that innovation schools request in part because
15 innovation schools remain governed by the local districts
16 board. And so many of these are looking for an opt-out
17 for a different kind of policy run by a charter board
18 which has obviously a different governing approach and so
19 there -- there's very little overlap between these and
20 what we've seen in terms of Innovation Act requests.

21 UNIDENTIFIED VOICE: Okay. That's helpful.
22 Oh, I had one really other very pressing --

23 CHAIRMAN LUNDEEN: It was brilliant, too.

24 UNIDENTIFIED VOICE: It was absolutely
25 brilliant. Hold on a second. Hold on a second. Waivers,



1 charter schools, okay, it's -- it's -- it's going to back.
2 I think my general feeling is is that -- oh, I know what
3 it is. Brilliant. It just came. It just came. So -- so
4 if a district or just an individual school that's not a
5 charter and not an innovation school wants to apply for
6 any of these waivers, can they?

7 UNIDENTIFIED VOICE: Mr. Chair.

8 UNIDENTIFIED VOICE: Please.

9 UNIDENTIFIED VOICE: Yes, they may through
10 the existing process which is if they come through our
11 office and we bring them to you.

12 UNIDENTIFIED VOICE: So I believe there is
13 a great deal of confusion out in the field about this
14 whole waiver process in -- in that somehow we need to be
15 able to -- and part of it's the problem that Paul is going
16 to solve when he goes across the street and will be in the
17 minority in the State House so he will have limited
18 effectiveness, but in any (indiscernible)

19 UNIDENTIFIED VOICE: (indiscernible)

20 UNIDENTIFIED VOICE: In any case, as I was
21 saying, part of it's the fact that we're waiving statutes
22 rather than addressing the statutes themselves, okay? But
23 in the meantime, while we are waiving those statutes,
24 they're -- it's just too darn confusing. So I don't know,
25 Robert, what can be done about this in terms of a clearer



1 communication about what's waivable for charters, for
2 innovations, for district schools, for districts, what the
3 process is, whether it's a chart, but -- but there are a
4 lot -- there's a lot of interest in that out there.

5 UNIDENTIFIED VOICE: We agree
6 (indiscernible)

7 UNIDENTIFIED VOICE: Quickly say I think
8 the intention of -- of the legislation in many ways was to
9 try and offer clarity so it's interesting if you're
10 responding that way because I think there had been a lot
11 of confusion about what automatic meant before --

12 UNIDENTIFIED VOICE: For charters.

13 UNIDENTIFIED VOICE: Yes, and that's the
14 only people who ever had --

15 UNIDENTIFIED VOICE: But I'm talking about
16 the whole field.

17 UNIDENTIFIED VOICE: Yes. So we have -- we
18 have significant guidance about this on the website and
19 have tried really hard actually to clarify especially
20 those processes that are outside of innovation or charter
21 because those I think in the past actually have been more
22 confusing when a district comes, for example, and is
23 seeking a waiver from you all that has been more
24 confusing.

25 So I think we try very hard to put out the



1 (indiscernible) about this. We'll continue to do that.
2 We -- our office which as you know really does interact a
3 lot with charter and innovation schools. We train on this
4 very frequently. I don't know that that necessarily would
5 be getting to districts who don't have charter and
6 innovation things going on so maybe that's something we
7 could look at is trying to figure out other means of
8 disseminating that information beyond our office which
9 really does aim pretty squarely at charter and innovation
10 schools.

11 UNIDENTIFIED VOICE: Well, were you going
12 to say something brilliant? I mean, maybe it's --

13 UNIDENTIFIED VOICE: No pressure.

14 UNIDENTIFIED VOICE: -- a Q and A, you
15 know, if you're a charter school, what's the process for
16 waivers, if you're a district school, what's the -- just
17 something if you can just -- we could direct schools to
18 and say, well, just go to the CDE website and there's, you
19 know, you can get that information very straightforward.

20 UNIDENTIFIED VOICE: (indiscernible) page
21 called waivers.

22 UNIDENTIFIED VOICE: Yeah.

23 UNIDENTIFIED VOICE: To Gretchen's very
24 good point, that information exists and you would only
25 find it if you were seeking it because you were an



1 innovation school or a charter school so it may be as
2 simple as moving that to a more general --

3 UNIDENTIFIED VOICE: But --

4 UNIDENTIFIED VOICE: -- place in the
5 website or a more general training that's provided to all
6 districts.

7 UNIDENTIFIED VOICE: Your points are well
8 taken. We'll work 'em in, okay? I -- I understand
9 (indiscernible)

10 UNIDENTIFIED VOICE: No, I --

11 UNIDENTIFIED VOICE: Be quiet is that --

12 UNIDENTIFIED VOICE: Is that what you're
13 telling me?

14 CHAIRMAN LUNDEEN: Pam, do you have
15 questions?

16 MS. MARANZEC: No, I always thought that
17 was interesting --

18 CHAIRMAN LUNDEEN: Angelika, you already
19 had --

20 MS. SCHROEDER: (indiscernible)

21 CHAIRMAN LUNDEEN: You're done?

22 MS. MARANZEC: (indiscernible) created to
23 provide --

24 MS. NEAL: Then I'm fine.

25 CHAIRMAN LUNDEEN: You're fine? Okay.



1 MS. MARANZEC: (indiscernible) the waivers
2 and the purpose of this rule was simply to put what are
3 typically automatic -- automatic waivers into a box so
4 that they don't have to come here and ask for every single
5 one of 'em and doesn't necessarily apply to schools of
6 innovation or districts of innovation or regular district
7 schools.

8 UNIDENTIFIED VOICE: I'm not allowed to say
9 anything else.

10 CHAIRMAN LUNDEEN: Okay. Okay. Not to put
11 too fine of a point on it, but I get this -- this puts the
12 automatic in automatic so that -- that's awesome. Had --
13 had an automatic ever been rejected previously? Is there
14 any precedent for --

15 UNIDENTIFIED VOICE: I don't think so, no.
16 It just --

17 CHAIRMAN LUNDEEN: It was just a matter of
18 shuffling paper in order to get through what you deserved
19 to get through. Okay. Fair enough. Just wanted to cover
20 that. And then I was going to ask, but I think it's
21 probably irrelevant as I'm beginning to understand this
22 conversation more clearly, you know, what's the dog that
23 didn't bark? What's the waiver that should be automatic
24 that isn't automatic? And I don't think that was part of
25 this conversation because the statute didn't -- didn't



1 speak to that. Is that correct?

2 UNIDENTIFIED VOICE: That's correct.

3 CHAIRMAN LUNDEEN: Okay. So then I would
4 ask a matter of policy is there a dog that's not barking
5 that would be worthwhile, too, you know, here's -- here's
6 another automatic for charters. And I guess that would
7 take legislation to do that, huh?

8 UNIDENTIFIED VOICE: (indiscernible)

9 UNIDENTIFIED VOICE: (indiscernible)

10 CHAIRMAN LUNDEEN: What?

11 UNIDENTIFIED VOICE: (indiscernible)

12 UNIDENTIFIED VOICE: The dog, the dog --

13 CHAIRMAN LUNDEEN: Yes --

14 UNIDENTIFIED VOICE: (indiscernible)

15 CHAIRMAN LUNDEEN: Mr. Doyle and I were
16 conferring on this earlier this afternoon. Okay --

17 UNIDENTIFIED VOICE: Can you spell that?

18 CHAIRMAN LUNDEEN: It's very literate.

19 You've got to really work hard to keep up with her. Okay.
20 So I want to come back to -- and I have to bring the tone
21 back into the -- this hearing so you can address me as Mr.
22 Chairman for the answer to this particular question.

23 UNIDENTIFIED VOICE: Excuse me.

24 CHAIRMAN LUNDEEN: Okay. I want to go back
25 to this question of -- of the oversight process because



1 everybody in the rooms knows I believe in the wild west.
2 I think charters ought to just really be free to go where
3 they want to go, but I always put one caveat out there
4 when I talk about that. You can't do anything that
5 contravenes the Constitution of the United States of
6 America or the Constitution of Colorado. So there's this
7 oversight provision that would say, okay, make sure
8 they're not steppin' over -- we'll call it Lundeen's rule
9 for the purposes of this little conversation -- where's
10 that oversight happen and what's that process look like?
11 It's district or authorizer to State Board, so just
12 describe that process to me because I want to be clear
13 that there is freedom, but when that freedom runs you
14 afoul with what we as a society say is not appropriate,
15 how do we reign it back in?

16 UNIDENTIFIED VOICE: Mr. Chair.

17 CHAIRMAN LUNDEEN: Please.

18 UNIDENTIFIED VOICE: So the way this works
19 functionally is that charters are all accountable to their
20 authorizer, whether that be a district or CSI. And the
21 authorizer is obligated to review their performance and
22 the degree to which they're adhering to the contract that
23 they have with that school. They do that on whatever
24 cycle is dictated in the contract that they have with
25 them. And as long as that happens in a way that the



1 districts reviews and renews the school, we don't hear
2 about that except for them renewing waivers through you.
3 If they choose to non-renew and there's a disagreement
4 between the school and the district about that, then they
5 may come to you in appeal and then you would participate
6 in those decisions --

7 CHAIRMAN LUNDEEN: Right, so --

8 UNIDENTIFIED VOICE: -- and essentially all
9 of those decisions of oversight are really given to -- to
10 the authorizer.

11 CHAIRMAN LUNDEEN: So the authorizer would
12 have to be paying attention to what's happening under
13 their jurisdiction. You know, this is a curricular
14 choice. It really is a challenging or difficult or
15 improper curricular choice. That would be the first
16 warning on that issue. Okay. That answers my questions.
17 Other questions or comments? Okay.

18 UNIDENTIFIED VOICE: Let's vote.

19 CHAIRMAN LUNDEEN: Then a motion is in
20 order.

21 MS. NEAL: Mr. Chair, I move to approve the
22 rules for the waiver of statute and rule.

23 CHAIRMAN LUNDEEN: Is there a second? Dr.
24 Scheffel second down here. Without opposition, the motion
25 shall carry. No opposition being heard, motion carries.



1 Thank you.

2 UNIDENTIFIED VOICE: Thank you.

3 UNIDENTIFIED VOICE: Thank you.

4 (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 5th day of April, 2019.

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

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