



COLORADO
Department of Education

Colorado State Board of Education

TRANSCRIPT OF PROCEEDINGS
BEFORE THE
COLORADO DEPARTMENT OF EDUCATION COMMISSION
DENVER, COLORADO
April 9, 2014, Part 1

BE IT REMEMBERED THAT on April 9, 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)
Pam Mazanec (R)
Debora Scheffel (R)
Angelika Schroeder (D)



1 CHAIRMAN LUNDEEN: State Board will come
2 back to order; staff, please call the roll.

3 MS. MARKEL: Elaine Gantz Berman?

4 MS. BERMAN: Here.

5 MS. MARKEL: Jane Goff? Paul Lundeen?

6 CHAIRMAN LUNDEEN: Good morning.

7 MS. MARKEL: Pam Mazanec?

8 MS. MAZANEC: I'm the (indiscernible).

9 MS. MARKEL: Marcia Neal?

10 MS. NEAL: Here.

11 MS. MARKEL: Debora Scheffel?

12 MS. SCHEFFEL: Here.

13 MS. MARKEL: Angelika Schroeder?

14 MS. SCHROEDER: Here.

15 CHAIRMAN LUNDEEN: Please stand for the Pledge
16 of Alliance. And since Elaine is already standing, we'll let
17 her lead off.

18 ALL: I pledge allegiance to the Flag of the
19 United States of America and to the Republic for which it
20 stands. One Nation under God, indivisible, with liberty and
21 justice for all.

22 CHAIRMAN LUNDEEN: Thank you. I think Pam was
23 (indiscernible). So just let the record show that Jane and Pam
24 are in fact here.

25 UNIDENTIFIED VOICE: Thanks, Paul.



1 CHAIRMAN LUNDEEN: Absolutely. Let's approve
2 the agenda. Do I have a motion?

3 MS. NEAL: I move to approve the agenda as
4 published.

5 CHAIRMAN LUNDEEN: Thank you. Is there a
6 second? Angelika seconds. Please, if we could move to the
7 consent agenda.

8 MS. NEAL: I move to place the following
9 matters on the consent agenda: 13.01; regarding disciplinary
10 proceedings concerning the license, charge number 2012-EC-1099,
11 to direct the Commissioner to sign the settlement agreement.

12 13.02; regarding disciplinary proceedings
13 concerning an application, charge number 2013-EC-2195, instruct
14 Department staff to issue a notice of denial and appeal rights
15 to the applicant pursuant to 24-4-104.

16 13.03; regarding disciplinary proceedings,
17 concerning an authorization, charge number 2013-EC-2272,
18 instruct Department staff and the State Attorney General's
19 Office to prepare the documents necessary to request a formal
20 hearing for the revocation of the authorization holder's five-
21 year authorization, pursuant to 24-4-104 CRS.

22 13.04; approve Stargate School's teachers,
23 special service providers induction program.

24 13.05; approve the STEM School principal's
25 induction program.



1 13.06; approve Western State Colorado
2 University's proposal for a culturally and linguistically
3 diverse education endorsement program.

4 14.01; approve Colorado Springs district 11 to
5 request on behalf of State Space Technology and Arts Academy
6 for a waiver from State statutes as submitted.

7 14.02; approve Roaring Fork School district's
8 REI's request for a waiver from State statutes as requested.

9 14.03; approve Denver Public School's request
10 on behalf of Denver Schools of Science and Technology, for a
11 waiver from State statutes as submitted.

12 15.01; approve the appointment of Cassidy
13 Delamanche (ph), Irwin -- I forgot to look at this in advance -
14 - Irwin Fowye (ph), Elizabeth Fries (ph), Tom Gribble (ph),
15 Cindy Holden, Richard Humphrey, Melissa Fenore (ph), Sherry
16 Watson, and Theresa Wright, to the Colorado Special Education
17 Advisory Committee.

18 16.01; approve school -- Public School Finance
19 Act of 1994, as amended. State share payments in the monthly
20 amount of 255,895,198.64 for March, 2014 through May 2014.

21 16.02; approve the payment of contingency
22 reserve funds in the total amount of 1,733,884.00 for multiple
23 school districts due to unanticipated events, which caused
24 significant financial need, as authorized by HB14-1250. This
25 is the end of the consent agenda.



1 CHAIRMAN LUNDEEN: Proper motion. Is there a
2 second? Angelika seconds. Is there any objection? Hearing no
3 objection; motion carries. Ms. Markel, would you please
4 report?

5 MS. MARKEL: Thank you, Mr. Chairman. Good
6 morning Members of the Board and Mr. Commissioner. In your
7 packets you have two new facts sheets; one is entitled
8 Supporting/Protesting of the PARCC Assessments. And the other
9 addresses school nutrition.

10 You have in your Board packets, also
11 (indiscernible) and an updated (indiscernible). In Section 7,
12 we have the material (indiscernible) online, and how you
13 appeal, which we'll be hearing and considering at 9:15 this
14 morning. In Section 8, you have copies of the legislation that
15 has been posted on Board Docs, and will be up for discussion
16 during the legislative update that Jennifer Mello will provide.
17 And if you need the hyperlink to those summaries, please do
18 send me an email and I'll be happy to send it on to you.

19 In 8.02, you have a fact sheet concerning
20 total program funding for 2013-14. Supplemental appropriation,
21 and comparison of 2014-15 appropriations per household
22 (indiscernible). And along with this (indiscernible) showing
23 the estimated change between the 2013-14 appropriations. In
24 Section 9, you have the materials regarding the Highly
25 Effective Library recognition that will take place later this



1 morning. Section 14, you have materials provided by Roaring
2 Fork School District in support of their request for a waiver.
3 In 14.03, you have Denver Public School's materials supporting
4 their request for a waiver for Denver School of Science and
5 Technology.

6 In Section 7.15, you have the application and
7 nomination materials that were supplied for the (indiscernible)
8 Colorado Special Education Advisory Committee. Section 16, you
9 have copies of the state share of total program for 2013-14,
10 for the month of March, along with emergency funding
11 spreadsheet that was directed to specific school districts as a
12 result of House Bill 14.15. In Section 17, you have the
13 (indiscernible) along with the annual report of student
14 enrollment.

15 And for Thursday you have the materials that
16 will be used by the three school districts that you will be
17 hearing from tomorrow; Adams 14, Karval, and Pueblo City
18 Schools, with regard to the turnaround (indiscernible)
19 presentations.

20 And that is the entire report, unless there
21 are questions.

22 CHAIRMAN LUNDEEN: Any questions? Thank you
23 very much. We can move on to the next item on the agenda: The
24 Colorado State Board of Education will now conduct a hearing in
25 case number 2014-A-01. The appeal of Hope Online from the



1 decision of Eaton School District Board's refusal to enter into
2 an MOU for the operation of a learning center. During this
3 hearing the Board is acting in its capacity to hear appeals,
4 and will hold a hearing until the -- under the rules for
5 administration, certification, and oversight of Colorado online
6 programs; 1CCR301-7. And the particular rule, 10.01 concerning
7 the right of an appeal for refusal to enter into a standard
8 memorandum of understanding.

9 I'd like to ask the person chosen to represent
10 each party to enter your name into the record, along with the
11 party you represent, and let's -- if you just want to come up
12 to the table here, that would be great. You can sit at the
13 table here, if you just want -- side-by-side is fine.

14 MS. SMILEY: Good morning, I'm Kimberley
15 Smiley and I'm here on behalf of Hope Online Learning Academy.
16 And here with me today is Heather O'Mara, Hope's CEO.

17 MR. NORRIS: Good morning, I'm Randy Norris,
18 Superintendent, Eaton School District.

19 CHAIRMAN LUNDEEN: Thank you very much. The
20 role of the State Board is to consider only those issues raised
21 in the Notice of Appeal. In relation to those issues contained
22 in the Notice of Appeal, the Board will apply the following
23 standard of review, following oral argument. The Board will
24 decide whether it is in the best interest of the pupils, the
25 school district, or the community, to support the local Board's



1 decision to refuse to enter into an MOU with Hope Online, for
2 the operation of a learning center.

3 Hope Online will present its position first.
4 The parties have already submitted written positions; a maximum
5 of 15 minutes will be granted to each party for the oral
6 presentation. During this time, the party may summarize its
7 written presentation -- presentation. The hearing shall
8 proceed as follows: First, Hope Online will present its
9 arguments. Second, Eaton School District will present its
10 arguments. Third, the State Board will deliberate, including
11 questions to the parties, and render its decision.

12 Excuse me. We will adhere to the maximum time
13 limit. Each segment will be timed, and Ms. Markel over here,
14 will be keeping track of that for you. You will notified when
15 you have five minutes, if in fact you're bumping up against
16 that timeframe. Are there any questions from Board Members?
17 Yes, Angelika?

18 MS. SCHROEDER: Do we wait until it's all over
19 to ask our questions? Or are we free (indiscernible) other
20 hearings to ask?

21 CHAIRMAN LUNDEEN: I -- I think you're free to
22 ask clarifying questions, if -- if you really want to drill in
23 to follow a complete line, I'd -- I'd ask you to kind of hold
24 it, so that we give them an opportunity to get their
25 presentation out. But if -- if -- so the -- yes, you're free



1 to ask questions, but if you're really going to go a long way,
2 dive down, hold it, if you would please.

3 We now call Hope Online for its allotted 15
4 minute presentation.

5 MS. SMILEY: Good morning, Commissioner
6 Hammond, Members of the State Board. First, I want to thank
7 you for the opportunity to allow Hope to speak today in support
8 of its appeal. And with the Board's permission, I would like
9 to reserve a few minutes of my time to allow Hope's CEO to
10 speak to you directly, if that would be appropriate?

11 CHAIRMAN LUNDEEN: Absolutely. You've got 15
12 minutes; use it how you choose.

13 MS. SMILEY: Okay, great. As explained in
14 Hope's opening brief, in the reply brief, there are two
15 separate basis for the State Board to grant Hope's appeal, and
16 direct the Eaton School District to enter into an MOU with
17 Hope.

18 First, the Eaton School District has failed to
19 comply with the process set forth in the online act.
20 Specifically, if you take a look at Colorado revised statute
21 22-30.7-111, subsection 1J. The statute reads: To ensure that
22 all students have a reasonable opportunity to benefit from
23 online education, a school district and a multidistrict online
24 school shall make good faith efforts to craft and enter into a
25 memorandum of understanding pursuant to the provisions of this



1 section. Eaton simply has not to date, and continues to refuse
2 to work in good faith with Hope.

3 First, Hope's December 19th, 2013 letter to
4 Eaton, which was contained in Exhibit A to Hope's opening
5 brief, expressly asked Dr. Miller to contact Hope's CEO,
6 Heather O'Mara, to discuss the proposed MOU. That never
7 happened. Dr. Miller never contacted Hope about the MOU until
8 he sent the January 20th, 2014 letter, denying Hope's request.
9 Hope respectfully requests that the State Board hold Eaton
10 accountable to following the mandates of state law. Eaton did
11 not meet with Hope to discuss the MOU. Eaton did not work with
12 Hope to schedule a public meeting. For these reasons, Hope
13 urges the State Board to find Eaton's denial letter was
14 invalid, because it was produced pursuant -- because it was not
15 produced pursuant to the process dictated by statute. And to
16 deem the MOU sent by Hope on December 19th, 2013 effective by
17 operation of law.

18 If the Board chooses not to deem the MOU
19 effective based on Eaton's failure to follow the MOU process,
20 Hope urges the State Board to grant Hope's appeal and overturn
21 Eaton's improper denial on substantive grounds. Specifically,
22 Eaton has not demonstrated that the continued operation of a
23 Hope Learning Center in the Eaton School District would be
24 contrary to the best interests of the pupils, parents,
25 community or district.



1 That's what Section 22=30.7-111 subsection F
2 requires. Subsection F states, and I quote, "A school district
3 may refuse to enter into a memorandum of understanding with a
4 multidistrict online school, for the operation of a learning
5 center within the school district, only if..." and then it
6 provides two circumstances. One: The form provided by the
7 online school fails to satisfy the requirement for the standard
8 MOU as described by statute. Or, the school district
9 reasonably determines that the multidistrict online school is
10 contrary to the best interest of the pupils, parents,
11 community, or district.

12 Here, Eaton has not taken the position that
13 the MOU was deficient. So number one isn't even under
14 consideration. The only issue here is number two; whether or
15 not the continued operation of a learning center -- a Hope
16 Learning Center in the Eaton School District would be contrary
17 to the best interests of the pupils, parents, community or
18 district.

19 Eaton School Board based its denial --

20 CHAIRMAN LUNDEEN: Wait, Angelika has a
21 question here.

22 MS. SMILEY: Okay.

23 MS. SCHROEDER: I appreciate your comments and
24 I have read this much. What I have not read -- and I don't
25 know if it's required in the law or not, but what I'd like to



1 know is why it is in the best interest of your students, most
2 of whom don't reside in Eaton, to be sited there, as opposed to
3 another geographic area, where it's easier for the majority of
4 your students to attend?

5 MS. SMILEY: Well, none -- these students have
6 attended Eaton's -- the Hope Learning Center in the Eaton
7 School District since 2005. We have an established building,
8 we have an established staff here, and it's not so easy just to
9 pick up and move. Our learning center has to meet the
10 requirements of E occupancy, and a number of other things.
11 It's not very easy to find a -- a good location that passes all
12 of code requirements, and is affordable for the learning
13 center. Because we have limited monies that we have to work
14 with, so there are a lot of factors that go into it.

15 MS. SCHROEDER: Okay. And you have looked at
16 geographic locations that are closer to the -- I understand
17 from reading the materials that the majority of the students
18 are not sited in Eaton. That it might be more convenient for
19 them to be closer.

20 MS. SMILEY: But that hasn't been an issue
21 raised by any of our families or students. No one -- that
22 hasn't been a concern by any of the students or families.

23 MS. SCHROEDER: Thank you.

24 CHAIRMAN LUNDEEN: Please, go ahead.

25 MS. SMILEY: Okay.



1 CHAIRMAN LUNDEEN: Thank you. And while we've
2 got this parenthetical moment, I'll point out that Tony Dyl,
3 legal counsel, is here. If there are legal questions for
4 (indiscernible) --

5 (Overlapping)

6 MS. SCHROEDER: Right, yeah, that's not a
7 legal question, that's just a real question.

8 MS. SMILEY: Yeah, it's a factual question,
9 and it's fair. But it has not been something that -- that any
10 of our students, or parents, have raised, and it hasn't been an
11 issue.

12 CHAIRMAN LUNDEEN: Okay. Thank you very much.
13 Please, proceed.

14 MS. SMILEY: Okay. The first reason Eaton
15 thinks it makes more sense is -- is what Ms. Schroeder just
16 raised, is it makes more sense geographically. But just
17 because they think it makes more sense doesn't provide a
18 reasonable basis to deny Hope's request for an MOU. Second,
19 Eaton thinks that Hope's authorized -- or the Douglas County
20 School District, isn't in a position to determine what's best
21 for their students. Again, that doesn't provide a rational
22 basis under the statute to deny Hope's request.

23 Finally, what is really at issue here is
24 Eaton's long held, deeply rooted belief that this is a local
25 control issue. Eaton does not believe that it should be



1 required to permit Hope to operate a learning center within its
2 district. But the Online Act passed by the Colorado
3 legislature specifically permits online schools such as Hope,
4 to offer this choice to students. And interestingly, Eaton's
5 response implicitly acknowledges that Hope should be permitted
6 to operate a learning center.

7 If you take a look at the last page of Eaton's
8 response, Dr. Miller's March 14th -- it's actually 2014 letter,
9 but it's dated 2013 -- if you take a look at the second page,
10 third from the last paragraph, Dr. Miller states, "We request
11 that the State Board sign the MOU, and not force the Eaton
12 School District to do so." Well, this is essentially an
13 acknowledgement that an MOU with Hope should be signed. It's
14 just that Eaton doesn't want to sign it. Why? Again, a local
15 control issue.

16 Take a look at the next to the last paragraph
17 in the letter. Quote, "We believe that our school is effective
18 in meeting the needs of our students, and this is a local
19 control issue." Close quote. Hope urges the State Board to
20 follow the process mandated in the Online Act, because Hope
21 properly submitted an MOU to the Eaton School District for its
22 consideration. And because Eaton failed to follow the process
23 outlined in statute. And because Eaton has not produced any
24 evidence that the continued operation of a Hope Learning Center
25 in the Eaton School District, would be contrary to the pupils,



1 the parents, the community, or the district. And that's what
2 is required.

3 Hope respectfully requests that the State
4 Board grant Hope's appeal and order Eaton to enter into an MOU
5 with Hope. And at this time, unless the Board has any specific
6 questions for me, I would like to allow Hope's CEO, Heather
7 O'Mara to speak with you.

8 CHAIRMAN LUNDEEN: Sure. Pam, question
9 (indiscernible) to the Board (indiscernible).

10 MS. NEAL: Pull up a chair.

11 MS. MAZANEC: Has Hope and Eaton ever had a
12 signed MOU?

13 MS. SMILEY: No.

14 MS. MAZANEC: Never?

15 MS. SMILEY: No.

16 MS. O'MARA: Hope has -- I'm sorry -- Hope and
17 Eaton -- this is the third --

18 CHAIRMAN LUNDEEN: State -- tell us who you
19 are.

20 MS. O'MARA: I'm sorry, this is Heather O'Mara
21 from Hope Online Learning Academy Co-op. This is the third
22 time we've actually appealed the MOU to the State Board, so
23 Eaton has never approved Hope's MOU request, but the past --
24 the prior times the State Board has ordered Eaton to an MOU.

25 MS. MAZANEC: Can someone tell me -- I don't



1 know if this is a Tony question -- when -- when did the
2 location of Eaton begin? And under what circumstances?

3 MS. O'MARA: The Hope Learning Center in Eaton
4 opened in 2005, in the first year of operation of Hope -- and
5 to answer Ms. Schroeder's question, the reason we -- that
6 learning center is located -- it's really located right on the
7 border of Eaton and Greeley, so it is a convenient location for
8 our families. The reason they stayed in that location is
9 because they have reasonable -- reasons that Kim mentioned, but
10 also it's really -- it's a very reasonable rent, because the
11 community partnership that they have. And we haven't had a --
12 really had a need to move.

13 I understand the concern about the impact on
14 the Eaton School District. We specifically are not recruiting
15 from the Eaton School District, and as you've noted in
16 materials, currently we only have three students that are
17 residents of Eaton, none of whom have ever attended the Eaton
18 School District.

19 CHAIRMAN LUNDEEN: Why don't we hold questions
20 until we come to that part. So let's -- let's let Eaton School
21 District make their presentation. I'm sorry -- I'm sorry,
22 Heather, you --

23 MS. O'MARA: Actually, in my answer to my
24 question, I really just stated what I was going to talk about.
25 Is that Hope has operated a learning center in Eaton since



1 2005. The students, what we serve at the learning center in
2 Eaton, are -- really represent the high-risk students that Hope
3 supports. Ninety-two percent of students are minorities,
4 compared to 25 percent minorities in Eaton. Sixty-six percent
5 are eligible for free and reduced lunch, compared to Eaton's 34
6 percent. And markedly, 56 percent are not English proficient,
7 compared to four students, or 0.2 percent in Eaton.

8 So that students that we're serving at the New
9 Hope Learning Center are very different than the students
10 supported by the Eaton School District. But as I mentioned
11 before, we have three -- currently there are three Hope
12 students that are from -- residents of Eaton, but they've never
13 attended Eaton schools. They previously were homeschooled.
14 And really -- as documented in letters of support from
15 teachers, parents, and community members, we believe that the
16 Hope Learning Center is in the best interest of the community.

17 CHAIRMAN LUNDEEN: Elaine?

18 MS. BERMAN: So Douglas County is the
19 authorizer for Hope, correct?

20 MS. O'MARA: Correct.

21 MS. BERMAN: Do you need an MOU with Eaton to
22 operate there?

23 MS. O'MARA: Yes. Yes, because Hope -- in the
24 Online Act, because Hope has learning centers different than
25 some of the other online schools -- other blended online



1 schools that have drop-in centers or other facilities, Hope is
2 required to have a learning center with Eaton in order to
3 operate. I'm sorry, an MOU with Eaton, in order to operate a
4 learning center.

5 MS. BERMAN: And how many -- remind us how
6 many students are in the learning center?

7 MS. O'MARA: That learning center has 130
8 students, kindergarten through 12th grade.

9 MS. SMILEY: 169 right now, average of 130.
10 Over the past year, since 2005, it's been an average of 130.
11 This year we have 169 students.

12 MS. O'MARA: Thank you, sorry about that.

13 MS. BERMAN: And with the exception of three
14 students, they are all from the Greeley School District?

15 MS. O'MARA: The majority of them are from
16 Greeley, I think there's one or two from Windsor.

17 MS. BERMAN: Okay, thank you.

18 CHAIRMAN LUNDEEN: Okay. And I think we're
19 probably out of time. We can come back and ask questions of
20 both sides as we move further on throughout. But we will now
21 call Eaton School District for the allotted 15 minute
22 presentation, again, Carey will give you a five minute heads-
23 up.

24 MR. NORRIS: Thank you, Mr. Chairman,
25 Commissioner of State Board. Trust me, I won't come close to



1 my 15 minutes. Thank you for allowing me the opportunity to
2 speak. I do not plan on reiterating every point of my letter.
3 I'm sure you've read the material, and I will be happy to
4 answer any questions you may have.

5 As I stated in my rebuttal letter, we have not
6 hired an attorney to argue this, as we feel our funds can be
7 better spent on educating the students within our school
8 district. I have also learned over my many years in education
9 that it does not pay to argue with attorneys, as you've seen in
10 the papers provided by both sides on this issue. I will try
11 again to briefly point out our concerns to the State Board.

12 First and foremost, Eaton schools believe in
13 local control, and having a say in the education of the
14 students within the boundaries of the school district. If the
15 Eaton Board of Education really believed that Hope Online was
16 filling a need that Eaton School District cannot fill, they
17 would certainly look at -- look at it. It is truly not -- if
18 this is truly not a local control issue, like Hope Online
19 claims, then most everything else is a moot point, and we
20 should just be told what educational institution will be moving
21 into our district and when.

22 Eaton School Board did discuss this at the
23 January 13th, 2014 School Board meeting, and voted unanimously
24 to decline to enter into a memorandum of understanding, and
25 directed the superintendent to send a letter to the Colorado



1 Department of Education requesting that Hope Online not be
2 allowed in the district. And no, Hope Online did not receive a
3 personal invitation to that meeting. Should I have done that?
4 Probably. But we also post our agenda online, and throughout
5 the district, and they could have been there. I did invite
6 them via letter on February 27th, 2014 to the March Board
7 meeting if they wanted to present anything.

8 More importantly, Hope Online knew the Board
9 opposed this three years ago. They -- excuse me -- they could
10 have come to the Board at any time over the past three to six
11 years, to present their -- the positives of being in our school
12 district, but never have. We've had very little communication
13 with Hope Online over the last few years -- over the past
14 years, other than many CORA demands from them. I am -- I am on
15 their statewide mailing list, and receive some communication
16 about their overall program, but we have received very little
17 about this particular site.

18 When it comes to at-risk students in our
19 district, we provide online classes that is taught at the
20 school with an individual in charge to work with the at-risk
21 students. Do we satisfy all of the schools -- all of the
22 students and parent's needs? As much as we try, this is does
23 not happen. We have students that choose to attend neighboring
24 districts, or even choose other online options. My point is
25 that there is already in place plenty of opportune -- options



1 for students in our district that want something different.

2 If the comments by Hope Online are true, and
3 they do not have to prove how this will benefit the students in
4 the Eaton community, and the entire burden of proof is on the
5 school district to prove how this multidistrict program is
6 contrary to the interest of the pupil/parents community or
7 school district, which they say we have done, then I ask you
8 not to even give the school district the option. That's where
9 they -- they talked about, don't force us to sign it. I think
10 the attorney said that, well, because we wanted the State Board
11 to sign for us, we're in favor it. No. Just don't force us to
12 sign it.

13 Has Hope Online been a detriment to our school
14 district? No. Has Hope Online been any kind of a positive to
15 our school district? No. The biggest beneficiary of Hope
16 Online is the church building that is housing the program.
17 Since they are serving mostly the population of the Greeley
18 School District, it only makes sense that by moving into the
19 Greeley Evans School District, many more potential students can
20 benefit from their program.

21 In closing, I really feel like David versus
22 Goliath when it comes to Eaton versus Hope Online and Douglas
23 County Schools. This is a battle we have lost both times --
24 two times -- but still strongly believe that Eaton schools and
25 their district board know what is best for the students that



1 live in our district. Thank you again, Mr. Chairman and State
2 Board for allowing me the opportunity to share our concerns on
3 this issue. I will be happy to answer any questions that you
4 have.

5 CHAIRMAN LUNDEEN: Pam?

6 MS. MAZANEC: Where is the learning center
7 located in -- in -- in relation to Eaton schools?

8 MR. NORRIS: It's on the very north edge of
9 our school district.

10 MS. MAZANEC: Is it close to schools?

11 MR. NORRIS: Any Eaton schools? No. Well --

12 UNIDENTIFIED VOICE: It's pretty small.

13 MR. NORRIS: It's -- yeah. Yeah, we don't
14 have a lot of schools. Most all of our schools are right in
15 the town of Eaton itself. We have a small school, Galeton,
16 which is ten miles to the east. So I would say Hope Online is
17 located -- you guys may know better -- about six miles -- six
18 to seven miles north of Eaton.

19 MS. MAZANEC: So you said that Hope Online is
20 not a detriment; you also said it's not a benefit. Is it
21 really -- I'm trying to understand your -- your resistance. Is
22 it just because it was not a decision made by Eaton School
23 District --

24 MR. NORRIS: Yes.

25 MS. MAZANEC: -- to allow Hope Online in your



1 district? But it's not detrimental to your district, or your
2 students, or your parents, or your community?

3 MR. NORRIS: But I've said in an earlier
4 letter, I think probably what Hope Online does -- and I think
5 I've told Heather this, it -- it serves a purpose, it really
6 does. But does it serve a purpose to Eaton school students? I
7 do not believe it does. So I'm -- I'm not trying to say Hope
8 Online in general is a bad thing, I'm just saying it doesn't
9 fit our district.

10 MS. MAZANEC: All right, so your entire
11 resistance is that it wasn't Eaton School District's decision?

12 MR. NORRIS: A local control. Yes.

13 CHAIRMAN LUNDEEN: Jane, I haven't looked your
14 way. A question? Go ahead, and then I'll come back to you.

15 MS. GOFF: Good morning, thank you --

16 (Overlapping)

17 MR. NORRIS: Good morning.

18 MS. GOFF: -- for being here. You mentioned
19 communications and updates, and that you're on the -- the
20 statewide newsletter -- on the newsletter. But other than
21 that, when you talk about communications, being that Douglas
22 County is the authorizer, would -- or does Douglas County have
23 a role in communicating?

24 MR. NORRIS: I have not received anything from
25 Douglas County. Most every thing is flyers that Heather sends



1 out to everybody that's involved with Hope Online.

2 MS. MAZANEC: Is that -- may I ask?

3 CHAIRMAN LUNDEEN: Please, yes, go ahead.

4 MS. MAZANEC: Heather or -- knowing that
5 Douglas County has authorized other Hope schools in other
6 districts and such, do you -- are you -- have you operated
7 under standard procedure, or standard practices for you to do
8 the communicating with -- with the various communities in which
9 those schools are located? Or does Douglas County have -- have
10 any role at all in at least coordinating some communications?

11 MS. O'MARA: No. Because Hope enters directly
12 into the MOU with the school district, Hope directly sends all
13 of the information to the school district. So we send -- we
14 send a monthly -- approximately a monthly newsletter that we
15 send to each of the superintendents. We also send annually,
16 after the October count, information about the students that
17 are enrolled, the number of students, and where they are
18 located. And we send that to each member of the school
19 district.

20 And when we submit the MOU, the MOU request is
21 actually dually signed by myself and a representative from
22 Douglas County School District. But again, because our
23 relationship is direct, Hope communicates directly, there is no
24 reason that a superintendent or somebody from a school
25 district, if they had a question that I couldn't answer, or if



1 they wanted to reach out directly to the Douglas County School
2 District, that they wouldn't be available to answer those
3 questions.

4 MS. MAZANEC: Okay, thank you.

5 CHAIRMAN LUNDEEN: Marcia?

6 MS. NEAL: Heather, concerning attending a
7 School Board meeting, have you ever considered that? Going to
8 one of their board meetings to present?

9 MS. O'MARA: I mean, frankly, I haven't,
10 because our students -- as I mentioned before, our student are
11 not from the Eaton School District. I know we're located
12 within the border, and Dr. Miller did invite me to the March
13 meeting, but told me clearly in that note that there was
14 nothing that I could say, or present, that would change their
15 minds. So in my opinion, that wasn't the best use of my time.

16 MS. NEAL: Thank you.

17 MS. O'MARA: But I would be happy to do that
18 if they would invite me and be interested in hearing what we
19 do.

20 MR. NORRIS: And just from my point, as a --
21 being a superintendent for 23 years, I never tell anybody that
22 I know what the Board is going to do. No different than the
23 commissioner tries to say what you guys are going to do,
24 present, and it's up to the board to make up their minds.

25 UNIDENTIFIED VOICE: He knows better.



1 UNIDENTIFIED VOICE: You don't know Robert
2 very well.

3 MR. NORRIS: Oh, okay, I'm sorry.

4 CHAIRMAN LUNDEEN: It's like catching lightning
5 in a bottle. Okay, I think Elaine had a question. No?

6 MS. BERMAN: Not right now.

7 CHAIRMAN LUNDEEN: Okay. Angelika, go ahead.

8 MS. SCHROEDER: I'm having a little trouble
9 with the David versus Goliath characterization here. So help
10 me out, because this is a different world than it was 20 years
11 ago, because of choice and online schools, et cetera. But I
12 don't -- I don't quite see the characterization.

13 MS. NORRIS: It's -- we're -- we're a pretty
14 (indiscernible) entity.

15 MS. SCHROEDER: Who is David and who is
16 Goliath?

17 MS. NORRIS: You don't see that? Well, if
18 sitting up here, and I'm going against an attorney and Douglas
19 County Schools, which is probably 100 size the time -- the size
20 of Eaton, and an attorney -- you know, do we feel this is a
21 battle we can win? Probably not. But to answer your question
22 --

23 MS. NEAL: He's David.

24 MS. NORRIS: We're the David.

25 MS. SCHROEDER: Well, we've certainly had



1 examples of a school district that can demonstrate that it's
2 not in the interest of their students, parents, or community,
3 and I don't know that we've ever -- I don't recall that we've
4 ever worried about what the size of the district was, or the
5 size of the school. So I'm going to suggest that that's
6 actually not the issue. The size of the two different
7 organizations is not the issue. The issue really is about co-
8 existing in a community. Not terribly dissimilar than if you
9 had a private school that was sited within Eaton. And I'm
10 assuming you don't have such?

11 MR. NORRIS: We don't have a private or a
12 charter school.

13 MS. SCHROEDER: But you would again have
14 students that are not under your --

15 MR. NORRIS: But those students would be
16 within the school district. That would be a big difference.

17 MS. SCHROEDER: Gotcha.

18 CHAIRMAN LUNDEEN: Other -- other questions,
19 comments? So I'm just going to say, as I look at this, it's
20 fairly narrow what we have the ability to do in this particular
21 circumstance. And it's -- and it's pretty prescriptive, as I
22 understand it, in what Eaton is required to do in order for us
23 to say, yeah, that's -- that makes sense. You basically have
24 to tell us in some specific way, why this is not in the best
25 interest of the -- the community, the school, the students.



1 And you're specifically saying, well, on that point, I -- I
2 concede. So I don't see that -- I mean, this is my argument --
3 I don't see that we have much choice but to say, you know, for
4 the third time, you need to enter into an MOU with Hope. So
5 that's my observations on this.

6 UNIDENTIFIED VOICE: Well, I guess before -- I
7 -- I'd like to start making my statements. I guess I'd like to
8 hear from -- from Tony, from his perspective, just so we have
9 the full --

10 CHAIRMAN LUNDEEN: Sure, absolutely.

11 UNIDENTIFIED VOICE: The full scope.

12 MS. NEAL: Tony is looking puzzled.

13 MR. DYLAN: Okay, well, just a couple
14 clarifications: Although Eaton does have to give a statement
15 of reasons why it is rejecting the MOU, the burden of proof in
16 this particular case before the State Board, is actually on
17 Hope Online to demonstrate that -- that Eaton's decision was
18 contrary to the best interests of pupils, parents, school
19 district, or community. That is a fairly open standard; it
20 allows you to essentially re-judge the issue afresh. And I
21 believe that it gives you a great deal of discretion in terms
22 of -- in terms of how you weigh those separate factors. I
23 don't know, unless there's more -- a more specific question?

24 UNIDENTIFIED VOICE: A couple of questions:

25 Can you -- can somebody remind us the last time this came



1 before the State Board, because it sounds like we've --

2 UNIDENTIFIED VOICE: 2011.

3 UNIDENTIFIED VOICE: 2011.

4 UNIDENTIFIED VOICE: I don't remember.

5 UNIDENTIFIED VOICE: And you've been
6 superintendent for a while in Eaton?

7 MR. NORRIS: Yeah, this is my ninth year.

8 UNIDENTIFIED VOICE: And just so I have a
9 frame of reference -- number of students in Eaton?

10 MR NORRIS: K-12; 1850. Eighteen hundred and
11 fifty students.

12 UNIDENTIFIED VOICE: I had another question,
13 Tony, but it has gone into cyber space.

14 MS. NEAL: It will come back.

15 CHAIRMAN LUNDEEN: Okay, other questions?

16 MS. SCHROEDER: Yeah, now -- now I do.

17 CHAIRMAN LUNDEEN: There we go, Angelika
18 that's good.

19 (Overlapping)

20 MS. SCHROEDER: Okay, now I am confused. It
21 is the responsibility of Hope Online to show that failure to
22 enter into an MOU is not detrimental to the kids of Eaton
23 School District? I'm -- I'm lost now. Because I -- I've been
24 basically thinking -- I keep thinking that it was up to Eaton
25 to demonstrate that it was not a benefit -- or that it was a



1 detriment -- I got it backwards.

2 MR. DYL: No, the -- the burden of proof, and
3 what that really means is, 50 percent plus one. It's a
4 preponderance of the evidence standard. So Hope is required to
5 prove by a preponderance of the evidence, that the decision not
6 to enter into an MOU is contrary to the best interest of the
7 pupils, parents, community, or school district.

8 MS. SCHROEDER: And if it doesn't make any
9 difference, which is what we've heard?

10 MR. DYL: That's -- that's ultimately a
11 factual question for this board to decide. Not necessarily a
12 legal question.

13 CHAIRMAN LUNDEEN: Well now -- you're
14 confusing me now.

15 (Overlapping)

16 UNIDENTIFIED VOICE: I know, you've got us --

17 CHAIRMAN LUNDEEN: So I'm reading from one of
18 your documents that you presented to us previously, that when
19 refusing to enter into an MOU with Hope, the district must
20 offer valid reasons why it is not in the best interest of
21 pupils, parents, community, or local district. So square me
22 back up with what I'm reading, that you had presented to me
23 previously. Or presented to us previously.

24 MR. DYL: That was actually a confidential
25 analysis of the different arguments of the parties. And how



1 they -- how they stack up and -- and my -- my take on the
2 different arguments offered by Hope, and offered by Eaton.

3 CHAIRMAN LUNDEEN: Pox on me for a clumsy
4 lout.

5 UNIDENTIFIED VOICE: But to clarify, what
6 you're saying right now, is that it is Hope's burden to prove
7 that the failure to enter into an MOU, is contrary to the
8 interests of the Eaton School District?

9 MR. DYL: Well, of and -- and -- this is what
10 gives you a great deal of discretion -- the -- the statute uses
11 the term "or", so --

12 UNIDENTIFIED VOICE: Uses the term what?

13 MR. DYL: Uses the term "or"; a disjunctive.
14 So I think you're looking at whether or not Eaton's decision
15 was contrary to the best interest of the pupils, or the
16 parents, or the community, or the school district. This
17 actually does allow you, as you make your determination, to
18 weigh those -- those different factors involved in making this
19 decision.

20 UNIDENTIFIED VOICE: May we read from the
21 statute directly, please? I don't know if -- (indiscernible).

22 UNIDENTIFIED VOICE: What?

23 UNIDENTIFIED VOICE: I wanted the -- someone
24 here to read from the statute directly.

25 (Overlapping)



1 MS. O'MARA: If I may -- if I may, I have a
2 section highlighted here. If you take a look at 22-30.7-111,
3 subsection -- let's see here --

4 UNIDENTIFIED VOICE: 6B.

5 MS. SMILEY: 6B. "If the State Board
6 determines...", so this is what you guys get to decide, "that a
7 school district's decision...", their decision, "to refuse to
8 enter into an MOU was contrary to the best interest of the
9 pupils, parents, community, or school district, the State Board
10 shall issue an order directing the school district to enter
11 into a final MOU with a multidistrict online school."

12 And so here, as Hope has stated in it's brief
13 and in reply documents, it has attached letters of parents of
14 students, employees of the learning center -- one of which is a
15 resident of Eaton -- all of the reasons why the continued
16 operation of Hope would be in the best interest of the pupils,
17 the parents, the community, and the district. And if Hope were
18 not allowed to continue operation for the upcoming school year,
19 that's 169 students that are going to be displaced. That's a
20 business that's going to be closed and employees that are going
21 to lose their jobs.

22 So quite frankly, for us to be able to pull it
23 together and get a learning center moved for the upcoming
24 school year? Not likely to happen. There's too much that goes
25 into it for it happen for the upcoming school year. So I think



1 those facts present a compelling argument, regardless of who
2 has the burden of proof. We can meet it. If -- if that's what
3 the -- you guys decide the statute requires -- the statute
4 clearly requires the district to have a reasonable basis to
5 deny our request, and the reasonable basis can only -- only be
6 based on the fact that the continued operation of it would be
7 contrary. And they haven't been able to do that. They just
8 don't want us in their district. But they have not provided
9 any evidence that it's contrary to the best interest of any of
10 those groups. Thank you.

11 CHAIRMAN LUNDEEN: Other questions?

12 MS. NEAL: Shall we set a date for next year?

13 UNIDENTIFIED VOICE: You can, Marcia.

14 MS. NEAL: It just seems to be going -- an
15 ongoing -- and while I certainly understand it's a matter of
16 honor, or whatever it is, the fact is that you're not entering
17 into the MOU as you were directed. And therefore, I move to
18 reverse the decision of the local Board of Education on the
19 ground that it is in the best interest of the pupils, school
20 district, or community to enter into an MOU with Hope Online,
21 and direct the local Board to enter into an MOU with Hope
22 within 30 days of today's date.

23 CHAIRMAN LUNDEEN: Is there a second? Dr. --
24 we have two doctors seconding. Take your -- take your pick.
25 So I will ask the staff to call the rule.



1 UNIDENTIFIED VOICE: No, can we make -- any
2 discussion?

3 CHAIRMAN LUNDEEN: Sure, absolutely, please.

4 UNIDENTIFIED VOICE: Because (indiscernible).

5 CHAIRMAN LUNDEEN: So there is a motion, and a
6 second. The floor is open for further discussion. Please, go
7 ahead.

8 UNIDENTIFIED VOICE: Thank you, thank you. So
9 I very much respect your perspective of local control. Where
10 I'm struggling is -- is the fact that the vast majority of
11 students -- I mean, almost all of them, come from another
12 school district. I might come down differently if it was the
13 opposite, but I don't really see how this impacts your school
14 district very much, if at all, except for the three students.
15 And I think you said the three students -- did I hear you
16 correctly? The three students don't even attend?

17 UNIDENTIFIED VOICE: Never attended.

18 UNIDENTIFIED VOICE: Never have attended.

19 Who's collecting the PPR on that?

20 MS. SMILEY: When I say they never attended,
21 those students never attended the Eaton School District prior.
22 Before they were residents of Eaton, they were in Windsor, and
23 they were homeschooled, and then they moved --

24 (Overlapping)

25 UNIDENTIFIED VOICE: They moved directly --



1 MS. SMILEY: They moved to the Easton school
2 district and enrolled in Hope.

3 UNIDENTIFIED VOICE: I see. I thought you
4 meant they never attended Hope.

5 MS. SMILEY: No.

6 UNIDENTIFIED VOICE: Thank you for clarifying
7 that. So I -- I -- I very much respect your position on local
8 control, but I'm going to be voting for this motion.

9 CHAIRMAN LUNDEEN: Other comments? Further
10 discussion? Staff, please call the roll.

11 MS. MARKEL: Elaine Gantz Berman?

12 MS. BERMAN: It's "aye", right?

13 CHAIRMAN LUNDEEN: It's affirmative.

14 MS. NEAL: Yes.

15 MS. BERMAN: Aye, thank you.

16 MS. MARKEL: Jane Goff?

17 MS. GOFF: Aye.

18 MS. MARKEL: Paul Lundeen?

19 CHAIRMAN LUNDEEN: Aye.

20 MS. MARKEL: Pam Mazanec?

21 MS. MAZANEC: Aye.

22 MS. MARKEL: Marcia Neal?

23 MS. NEAL: Aye.

24 MS. MARKEL: Dr. Scheffel?

25 MS. SCHEFFEL: Yes.



1 MS. MARKEL: Dr. Schroeder?
2 MS. SCHROEDER: Yes.
3 CHAIRMAN LUNDEEN: Motion carries. Thank you
4 very much.
5 MS. NEAL: Thank you. Thank you all.
6 UNIDENTIFIED VOICE: Thank you for coming.
7 UNIDENTIFIED VOICE: Thank you.
8 MS. NEAL: Very enlightening discussion.
9 UNIDENTIFIED VOICE: Yeah, it was interesting.
10 UNIDENTIFIED VOICE: Thank you.
11 UNIDENTIFIED VOICE: I like female attorney's,
12 by the way.
13 (Overlapping)
14 UNIDENTIFIED VOICE: Tony didn't hear.
15 CHAIRMAN LUNDEEN: Next item on the agenda is
16 the Commissioner's report.
17 (Overlapping)
18 UNIDENTIFIED VOICE: Can we have a short
19 break?
20 CHAIRMAN LUNDEEN: We'll take a short break.
21 Two minute and 37 second break.
22 (Meeting adjourned)
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C E R T I F I C A T E

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

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

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 25th day of February, 2019.

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

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