

**NEVADA STATE BOARD OF EDUCATION
NEVADA STATE BOARD FOR CAREER AND TECHNICAL EDUCATION**

May 1, 2008

Grant Sawyer Building, Room 4412
555 East Washington Avenue
Las Vegas, Nevada

And

Legislative Building, Room 2135
401 South Carson Street
Carson City, Nevada

MINUTES OF THE SUBCOMMITTEE ON CHARTER SCHOOLS

BOARD MEMBERS PRESENT:

Cindy Reid, Chair
Anthony Ruggiero, Member
Barbara Myers, Member

DEPARTMENT STAFF PRESENT:

Dr. Keith Rheault, Superintendent of Public Instruction
James Wells, Deputy Superintendent, Fiscal Services
Bill Arensdorf, Director, Office of Fiscal Accountability
Doris Arnold, Executive Assistant to the Superintendent of Public Instruction
Tom McCormack, Consultant, Office of Fiscal Accountability
Gary Horton, DSA Administrator, Department of Education

LEGAL STAFF PRESENT:

Dr. James E. Irvin, Deputy Attorney General

AUDIENCE IN ATTENDANCE:

Dr. Cliff Ferry, Member, State Board of Education
Marcia Washington, President, State Board of Education
Lorraine Alderman, Clark County School District
Jan Biggerstaff, Department of Education
Louis Csaka, Attorney Gordon and Silver, Insight School of Nevada
Shaundell Newsome, Imagine Schools
Craig Butz, Odyssey Charter School
John McMillan, Flangas McMillan Law Group, Imagine Schools
Jessica Marsh, Flangas McMillan Law Group, Imagine Schools
Nina Clark Anderson, Imagine Schools
Kristine Miller, Committee to Form, Imagine School at Mountain View
Elisa Stewart, Imagine Schools
Allison Wallace, Committee to Form, Imagine Schools
Ron Grogan, Secretary, 100 Black Men of Las Vegas

Roger Hanley, Insight Schools Inc.
Vickie Frazier-Williams, Regional Vice President, Imagine Schools
Bill Johnson, 100 Black Men of Las Vegas
Davette Cowner, Imagine Schools
Sumre Glass, Imagine Schools
Denise Dixon, Imagine Schools
Arlene Newsome, Imagine Schools
Eric James, 100 Black Men of Las Vegas
Sue Cocking, Silver State High School
Alan Staggs, Silver State High School
Patty Knight, Silver State High School
Dr. Eugene T. Paslov, Board member, Silver State High School
Chuck Muth
Gary Waters, Co-Chair Committee to Form, Insight School of Nevada
Mike Robison, Co-Chair Committee to Form, Insight School of Nevada
Dr. Demarest Hunter

1. CALL TO ORDER; ROLL CALL

Chairperson Reid called the meeting to order at 1:30 p.m. with attendance as reflected above. Due to meeting time constraints, Chairperson Reid requested the Department be allowed twenty minutes for their presentation; the applicant be allowed twenty minutes for a presentation, and the Board be allowed fifteen minutes for deliberations. Questions will follow each presentation. There were no objections. Chairperson Reid also requested applicants have governing boards present during their presentations.

2. Time: 1:30 p.m.: Discussion and possible recommendation that the Subcommittee on Charter Schools of the State Board receive information from Department staff regarding the status of a NRS 376.527 Subsection 7 Charter for the Insight School of Nevada.

A. Department staff will make recommendations about the completeness and compliance of the application. Although Department reviewers have found the application to be mostly complete and possibly complaint, clarification is needed on 1) a complete and accurate budget; 2) the employment status of the school's administrator; and 3) the start up costs provided by the EMO "Insight Schools, Inc." Department staff will make recommendations about whether or not a NRS 376.527 Subsection 7 Charter should be granted and possible conditions related thereto.

B. Representatives of Insight School of Nevada will have the opportunity to present information and evidence about the completeness and compliance of the application. Representatives of Insight School of Nevada will have the opportunity to present information and evidence about whether or not a NRS 376.527 Subsection 7 Charter should be granted and possible conditions related thereto.

C. The Subcommittee will discuss and possibly make recommendations concerning: 1. Whether or not the application is complete and complaint; and, 2. Whether or not a NRS 376.527 Subsection 7 Charter should be granted and possible conditions related thereto. The possible recommendations should be based upon findings of fact (reasons for its recommendations) and conclusions of law (the recommendation), separately stated. Findings of fact and recommendations must be based upon substantial evidence.

Bill Arensdorf, Director, Office of Fiscal Accountability, reported Tom McCormack, Consultant, Office of Fiscal Accountability, would provide an overview of the school; James Wells, Deputy Superintendent, Fiscal Services, would provide information regarding the budget; and he would make recommendations for a possible Subsection 7 Charter. He explained Subsection 6 had been changed to Subsection 7 at the request of charter schools. Subsection 6 told the public and any potential donors that the committee was well on their way to opening a school, but a facility was still needed. Subsection 7 meant additional conditions needed to be met and that a committee was almost there, but conversion to a full charter was still needed at a later date. Recommendations made during today's meeting would be for a Subsection 7 because all three schools in question at today's meeting qualified for Subsection 7.

Tom McCormack, Consultant, Office of Fiscal Accountability, reported an application from the Committee to Form the Insight School of Nevada was received by the Department on September 5, 2007. The Department was assisting the applicant since that time to achieve a complete and complaint application. On April 28, 2008, the Department informed the applicant the budget information provided on the application was still not complete and complaint. On April 29, 2008, the applicant responded by resubmitting budget and cash flow documents. School offices would be located in Clark County. The school would primarily serve approximately 250 at-risk pupils in grades 9-12 with plans to expand their service to 1,000 pupils. The school would be a distance education program with no regular required in-person contact between teachers and pupils. Because the school does not yet have an office facility, it was being considered by the State Board for a Subsection 7 Charter. The Subsection 7 Charter would need to be converted to a Subsection 5 Charter by future action of the State Board in order for the school to begin operation and receive State funding. In addition to providing facility-related documents, the State Board may also impose other conditions for conversion of a Subsection 7 Charter to a Subsection 5 Charter. Mr. McCormack pointed out a Subsection 5 Charter was a full charter. The school's focus on at-risk, underserved pupils and to provide a mentor to oversee a student were positive aspects for the State Board, but the lack of face-to-face, in-person contact between pupils and teachers was seen as a problematic aspect. Two other distance education charter high schools require pupils to regularly present themselves at the school for in-person instruction by the teacher. Face-to-Face contact was not required by law, but it was seen as a highly effective and perhaps even necessary aspect of a full-time distance education program.

James Wells, Deputy Superintendent, Fiscal Services, reported the application process involves two components: the daily operation of a charter school and whether or not the school has a sound business plan. The Department needed to review both components in order to ensure a school's success. The NRS only requires an applicant to submit a financial plan, a procedure for the audit of the programs and finances, and guidelines for closing the school. The NAC requires a statement from the applicant that they will submit a budget for each of the first two years of operation, a cash flow statement, and a pre-opening budget. In addition, the Department requires reasonable estimates; conservative projections; enrollment revenues; and to not overestimate resources such as building costs and charter school sponsor fees. It also needs to be tied to the education and financial plan. The Insight School of Nevada has submitted their two-year budget and identified the school will serve 250 students in the first year and 350 students in the second year coming from fifteen of the State's seventeen counties. The Distributive School Account (DSA) apportionments for the school were projected at \$1.3 million in the first year and approximately \$1.9 million in the second year. The ending fund balance was projected at \$2,300 in the first year and \$27 in the second year, which was from the information received on April 29, 2008. A revised cash flow statement and a response to a question from the April 10, 2008 submission from the school were also received on April 29, 2008. The budgetary component for Insight School of Nevada has never been deemed complete or compliant. The response from the applicant received on April 10, 2008 resulted in several requests for additional information and a revised cash flow statement. There were still several errors or inconsistencies in the budget and fiscal documents provided by the applicant on April 29,

2008. The applicant has not provided sufficient detail or supporting documentation to justify operational expenses, as stated on page 20D of Board supplemental packets, the Purchased Services column. It was not known how \$123,000 was calculated for the first year and \$184,000 for the second year. The documentation is necessary to determine whether the budget estimates reflect reasonable estimates based on the information that was available at the time of the application. Mr. Wells requested to see how inflation figures that were not tied to enrollment were determined. Secondly, in the April 29, 2008 response, there were several instances where information does not balance from one schedule or one set of documents to another or where there was inconsistent treatment of like items such as: the budget supplemental schedules do not balance to the budget documents as a whole. There was also inconsistent treatment of like expenditures between the two years in the budget document. An amount previously included in property or what was believed to be rental costs under Instruction Function for Special Programs in the first year was eliminated, but added to the ending fund balance. The amounts in the budget document do not tie to the cash flow worksheets submitted. The ending fund balance in year one is not carried to a beginning fund balance in the second year. The projected expenditures also do not include the charter school fees as required in the application instructions or it could not be identified where they were included. The cash flow statement also started with payments in the first year being in August, but there was a provision that first year charter schools can get their money thirty days in advance. Mr. Wells pointed out a letter received by the Department in January which stated \$800,000 was committed to the school was consistent with comments heard at the last Board meeting. Further clarification on this amount was requested from the Department and the response received on April 10, 2008 stated the funding would not be used as school funds, but funding that would be spent on the school for such things as public relations, marketing and professional services, again with very little substantiated documentation. The total amount submitted on April 29, 2008 for the pre-opening budget was \$480,000 which was different from the \$622,000 in the previous submission. Mr. Wells stated he had concern with the quality and consistency of the application submitted. Inconsistencies may lead the Department to wonder what other things might be overlooked and would make the Department look more closely at the application as a whole. The school could also face a deficient situation with their budget if there is a slight deviation in enrollment because the applicant has little reserves, but projected enrollment from many different counties. Because of this, the Department would expect a contingency plan part of which could be receiving additional information from the individual budget line items. If the application were approved, the Department would have several recommendations for conditions to be added to the normal building site and insurance conditions in the conversion to a full charter. First, the budget cash flow and supplementary schedules should be revised to balance from one another and to treat like items consistently. Second, the applicant would have to provide sufficient and substantiated documentation and the calculations that were used in the creation of the school's budget for benefits and operation-related expenditures. Third, the school administrator would need to be identified and whether or not that person was an employee or a contracted employee. The current budget appears to list the administrator as being both an employee and a contracted employee. Fourth, the applicant would need to provide detailed, substantiated documentation and the calculations of the pre-opening budget and to explain the difference between the \$622,000 budget and the previous comments about the \$600,000 to \$800,000 commitment. Lastly, the applicant should provide a contingency plan for budget reductions should the projected enrollment not materialize or identify budget line items that may be reduced in the event of a shortfall.

Mr. Arensdorf explained the Department was requesting clarification about the school's administrator because if the Executive Director or Principal listed on page 20D were retired from the Nevada Public Employee's Retirement System (PERS) they cannot be an employee of the Governing Board. Governing Board employees must be in PERS. If one of those individuals were retired, they would need to be employed by an EMO. An additional Department recommendation would be for the applicant to obtain a facility in case a student needed to be counseled or tested for special education placement. An insurance affidavit would also need to be

completed in order to ensure that the Committee to Form the school has obtained the necessary insurance to operate as a public school.

Member Ruggiero requested to hear the conditions again for Insight School of Nevada to be deemed a Subsection 7 Charter. Mr. Arensdorf reported the first condition would be to provide documentation including the Department's inspection of the facility; a facility that would include some capacity for parents and students to come in should that be necessary for either counseling or testing. Secondly, the applicant would need to submit the required insurance affidavit to operate as a public school. Thirdly, clarification was needed as to the key employees of the school and whether or not they would be employed by the Governing Board. If an employee would not be employed by the Governing Board, the contract would need to be submitted from the EMO who would employ them. Mr. Wells added a revised set of budget, cash flow, and supplementary schedules that balance from one another would need to be submitted. Second, substantiated documentation was needed as well as the calculations used for the benefit and operating costs. Third, the Department requests details and substantiated documentation for the pre-opening budget and an explanation of the differences in the amounts. Lastly, the Department would like to see a contingency plan for budget reductions should the school's projected enrollment not materialize or for the school to identify budgetary line items that may be reduced in the event of a shortfall.

At this time, Chairperson Reid recognized in the audience State Board President, Marsha Washington, and State Board member, Jan Biggerstaff, and State Board member, Dr. Cliff Ferry.

Chairperson Reid requested to know how much initial funding the school would receive if the charter was granted with the school's projected enrollment. Mr. Wells explained the Distributive School Account (DSA) revenues for the first year issued quarterly or monthly, depending on the cash flow of the State, would be \$1.35 million for the first year and \$1.875 million the second year with their projected enrollment.

Gary Waters, Co-Chair Committee to Form for Insight School of Nevada, introduced Mike Robison, Co-Chair, Dr. Demarest Hunter, Roger Hanley, Insight Schools Inc. and Louis Csaka, Attorney, Gordon and Silver. Mr. Waters reported Ronnie Smith, Principal, and Stacey Lewis, a public school teacher, were also on the committee, but could not be in attendance at today's meeting because they were working. All committee members were licensed school personnel in administration or teaching. Mr. Waters stated they agreed to staff recommendations, but preferred to discuss the information during a face-to-face meeting because they believe the recommended information has already been provided, but has not been communicated very well through e-mails. Regarding the budget, the Committee to Form did not have budgetary experience as far as accounting therefore relied upon the EMO to assist with that process. Mr. Waters highly recommended a CPA be a part of the school's Governing Board. They have extensively researched how to maintain and encourage student contact. Their on-line method was a very active method of keeping in contact with students. Mentors would also provide that interaction on a daily basis. The school may also provide some behavioral health elements in partnership with the University of Nevada, which would add additional interaction time.

Mike Robison, Co-Chair Committee to Form for Insight School of Nevada, reported he spoke to Tom McCormack earlier this week about informing the Department when an individual was hired as school administrator. Mr. Waters clarified no applicant that they were aware of for any position was currently with the State system or retired from the State system. The Governing Board will handle the hiring process for those individuals.

Mr. Waters explained the school was ready to go as far as capacity and that the school can meet all the criteria presented earlier for a Subsection 7 Charter. They did not apply for an EMO grant. All figures presented were estimates.

Mr. Robison explained the school's desire to do more for drop-out students in Nevada. He stated they have no objection to comply with Department recommendations in order to be a school the State Board can be proud of. They request a Subsection 7 Charter be provided at today's meeting and that thirty days be given to meet all Department recommendations.

Member Myers requested clarification of the relationship between the letterhead and the signature of the letter on page 20A and 20B. Mr. Robison explained MRS Limited was a personal company that he has used in order to serve as a school support team leader and draw State funds. The letterhead should not have been used for correspondence regarding Insight School of Nevada. The signature was also a personal title of his involvement with UNLV. Mr. Robison expressed his regret for the confusion.

Member Myers stated she needed an explanation of what the partnerships were and the private money as stated in the letter on page 20B. Mr. Robison explained they would be able to seek other funding once a charter was approved. Mr. Waters stated he envisioned partnerships with organizations who would donate different services which were available, but an entity was needed in order to go forward with that. Member Myers stated the Apollo Group that bought Insight School of Nevada also owns the University of Phoenix and that, in original facility information submitted, it stated the facility was going to be the University of Phoenix. She requested to know the partnership of Insight School of Nevada and the University of Phoenix. Mr. Waters explained he did not hear the University of Phoenix mentioned during past meetings and that there was no relationship between the University of Phoenix and Insight School of Nevada other than ownership. Initially, there were some individuals on the initial Committee to Form with ties to the University of Phoenix, but who left the committee due to those ties. Mr. Waters stated he was looking at facilities none of which have ties to the University of Phoenix.

Member Ruggiero requested to know if Mr. Waters had been employed by the University of Phoenix at one time. Mr. Waters replied no.

Roger Hanley, Insight Schools, Inc. Vice President, clarified they had initially considered renting a space in a facility that the University of Phoenix was also operating out of. The suggestion was withdrawn once it was apparent there may be a conflict of interest.

Member Myers requested to know when the suggestion had been withdrawn. Mr. Hanley reported the suggestion was withdrawn when Tom McCormack brought it to their attention during the first response to their application dated September 5th. Mr. Hanley stated for the record that neither the Apollo Group nor the University of Phoenix owns any property in the State of Nevada and that the facility being considered on East Gate Road in Henderson was rented by the University of Phoenix from Flamingo Properties and the committee had considered also renting from Flamingo Properties.

Chairperson Reid requested to know what Mr. Robison's title would be when the school begins operation. Mr. Robison stated he would be an applicant for Principal and not Executive Director. Mr. Waters reported they have advertised for an Executive Director and had a list of potential applicants, but they have received no current applications.

Chairperson Reid thanked Insight School of Nevada for their presentation. She opened the meeting to Committee deliberation.

Member Ruggiero asked Department staff for their recommendation regarding Insight School of Nevada. Superintendent Rheault stated the school would serve a population that was underserved in the State. The regulations also allow for provisions for facilities and insurance on a Subsection 7. There were concerns with the application, but from his perspective, the school was complete. He explained the law allows for some provisions on a Subsection 7 and that the application for a full charter can be denied if those provisions were not met. Mr. Arensdorf and Mr. McCormack agreed with Superintendent Rheault's recommendation.

Member Ruggiero asked Deputy Attorney General Irvin how specific conditions can be and if those conditions would hold up at a later date if the school failed to meet one of those specific conditions. Deputy Attorney General Irvin stated he could not answer Member Ruggiero's question because it was too broad, but Superintendent Rheault explained how conditions could be compliant with State Law. The applicant also stipulated to those conditions.

Member Ruggiero expressed concern that the conditions may not be specific enough and may be challenged at a later date if a Subsection 7 Charter was granted at this time, but a full charter was denied at a later date if a condition was not met. Deputy Attorney General Irvin stated, hypothetically, should the Subcommittee make a recommendation based upon Member Ruggiero's scenario, and should the full Board follow that recommendation, thirty days after the full Board following that recommendation and apprising the applicant of the recommendation, the time for judicial review will have run. He suggested this was the best legal positioning for the Board.

Chairperson Reid asked if the applicant had thirty days to meet conditions if the Subsection 7 Charter was granted. Deputy Attorney General Irvin replied no.

Member Myers made the following motion:

That the Subcommittee on Charter Schools grants the Subsection 7 Charter to Insight School of Nevada and that they would have to fulfill all of the conditions as outlined today by staff.

Discussion followed.

Member Ruggiero explained the Subcommittee on Charter Schools was only to make recommendations to the full State Board. He reiterated his concern that conditions were not specific enough.

The motion died due to the lack of a second.

Member Ruggiero requested more information from Department staff regarding budget calculation conditions. Mr. Wells stated he was comfortable with the level of detail that was included in Department recommendations and Mr. Water's suggestions about a face-to-face meeting with Department staff and to have a qualified financial director on the Governing Board.

Member Myers stated she was bothered by the State Board requesting more specific conditions than Department staff.

Regarding Member Ruggiero's concern about the number of conditions, Louis Csaka, Attorney Gordon and Silver, explained there were approximately twenty to forty conditions outlined for an applicant seeking municipal approval. Conditions were similar to a contractual agreement. He stated the seven conditions presented today was not a lot when compared to what some of the other administrative agencies in Nevada do in terms of conditions.

Member Ruggiero commented he had no problem listening to staff recommendations as other Board members in the past. He pointed out Insight School of Nevada had indicated they had relied on the EMO for their budgetary submission therefore could have done a better job of presenting that information.

Member Myers made the following motion, seconded by Member Ruggiero:

That the Subcommittee on Charter Schools recommends to the full Board of Education to grant a Subsection 7 Charter to Insight School of Nevada.

Member Myers pointed out conditions were already established under Subsection 7 therefore only a recommendation needed to be given to the full Board.

The motion passed unanimously.

Due to time restraints, Chairperson Reid stated she would announce when presenters had five minutes remaining for their presentation and when time was up during the next item.

3. Time: 2:30 p.m.: Discussion and possible recommendation that the Subcommittee on Charter Schools of the State Board receive information from Department staff regarding the status of NRS 376.527 Subsection 7 Charter for the Imagine School at Las Vegas Charter School Application.

A. Department staff will make recommendations about the completeness and compliance of the application. The Department will recommend that the Subcommittee deny the application. Although Department reviewers have found the application to be mostly complete and possibly compliant, other concerns about the school have arisen along with serious deficiencies discovered in the proposed contract between the governing body and the EMO, "Imagine Schools". The Committee to Form the School stopped communicating with the Department about October 30, 2007, and did not respond to Department inquires about continuing issues with the EMO contract.

The Department recommendation is for denial of the application for the following reasons:

- 1. Department reviewers identified concerns with the proposed Operating Agreement between the charter school and the EMO "Imagine Schools, Inc."**
- 2. The Committee to Form the School did not respond to Department inquiries about conditions in the proposed contract between Imagine School at Las Vegas and the EMO, "Imagine Schools".**
- 3. The proposed contract appears to enable the Chief Financial Officer (CFO) to act as a fiduciary advocate for the contractor rather than the school.**
- 4. The proposed contract appears to tie the hands of the governing body into a forced operation with the contractor having powers that remove authority from the governing body.**
- 5. The two year budget submitted by the school as required by NAC 386.180 (4) does not appear to contain realistic expectations or sound and accurate estimates of expenditures for operation in the Clark County market for various reasons. Additionally, the school failed to provide a statement of cash flow as required by the NAC.**
- 6. Past performance of the EMO contractor with One Hundred Academy of Excellence has resulted in serious deficiencies discovered by Department staff in completing State oversight of public schools.**

7. Past performance of this EMO contractor with One Hundred Academy of Excellence and its sponsor, Clark County School District, has resulted in serious deficiencies noted in the sponsor's annual review with noncompliance findings in several areas.

8. Past performance of this EMO contractor in other states has resulted in publicly reported deficiencies including debt of the school(s), control of school(s) by the contractor rather than a public entity, and lack of proper control for financial management insuring tax payer dollars are being appropriately spent.

B. Representatives of Imagine School at Las Vegas will have the opportunity to present information and evidence about the completeness and compliance of the application. Representatives of Imagine School at Las Vegas will have the opportunity to present information and evidence about whether or not a NRS 376.527 Subsection 7 Charter should be granted and possible conditions related thereto.

C. The Subcommittee will discuss and possibly make recommendations concerning: 1. Whether or not the application is complete and complaint; and, 2. Whether or not a NRS 376.527 Subsection 7 Charter should be granted and possible conditions related thereto. The possible recommendations should be based upon findings of fact (reasons for its recommendations) and conclusions of law (the recommendations), separately stated. Findings of fact and recommendations must be based upon substantial evidence.

D. If the State Board denies an application, it shall include in the written notice the reasons for the denial and the deficiencies in the application. The applicant must be granted 30 days after receipt of the written notice to correct any deficiencies identified in the written notice and resubmit the application. The Subcommittee findings of fact (reasons for its recommendations) should be specific enough to assist the State Board in describing the reasons for the denial and the deficiencies in the application, if the recommendations from the Subcommittee include denial of the application.

Bill Arensdorf, Director, Office of Fiscal Accountability, reported Department staff divided comments into five different portions: Tom McCormack will address the educational model; he will talk about the operational model; James Wells will discuss the budget; Gary Horton will provide information regarding the contracts; and a final summary will follow.

Tom McCormack, Consultant, Office of Fiscal Accountability, reported a charter school application from the Committee to Form the Imagine School at Las Vegas was received by the Department on September 1, 2007. The school would be located in Clark County and would primarily serve at-risk pupils. It would serve 325 to 500 pupils in grades K-5 with plans to expand to 850 pupils in grades K-8. The school does not include a distance education program. It was being considered for a Subsection 7 Charter due to the fact that the school does not yet have a facility. The Subsection 7 Charter would need to be converted to a Subsection 5 charter by future action of the State Board in order for the school to begin operation and receive State funding. A charter approved by the State Board would be for a fall 2009 start-up because the applicant failed to provide a complete and complaint application by the January 15, 2008 deadline for a fall 2008 start-up. Between now and then, the school would be eligible to apply for Federal charter schools grants funds provided by the Department. The school intends to contract with Imagine Schools, an Educational Management Organization (EMO) based in Arlington, Virginia to provide an extensive array of educational and financial services. Imagine Schools currently contract with the One Hundred Academy of Excellence in Clark County and operates 51 schools in ten states. The Imagine School at Las Vegas application contains several positive aspects including the school's focus on at-risk, under-served pupils and the school's planned provision of before- and after-school programs. The fall 2009 start-up date would allow the school sufficient pre-opening planning time to find a facility. Problematic aspects of the application include: 1) the proposed operating agreement between Imagine and the school; 2) the past performance of Imagine schools in Nevada and elsewhere; and 3) the proposed school's budget. Imagine Schools must be considered by the Board since Imagine Schools would play an integral part in the Imagine School at Las Vegas because of the extensive array of educational and financial services they

would provide. Letting experience at the One Hundred Academy inform decision-making for proposed Imagine Schools is relevant and appropriate because the One Hundred Academy and the Imagine School at Las Vegas would use similar if not identical curriculums, but the One Hundred Academy scores on the 2007 State-mandated tests were some of the lowest in the State of Nevada. They avoided an AYP designation of "In Need of Improvement" for FY 2007 because they filed an appeal with the Department and was granted a waiver for the first year of operation, but there was no question that they failed to meet AYP requirements. In spite of this fact, Imagine Schools published a 2007 annual report claims for the One Hundred Academy of Excellence that: "Our students demonstrated learning gains of more than 1.2 grade levels in our first academic year. We were recognized as one of three Clark County schools achieving AYP". While there have been other Nevada schools designated as "In Need of Improvement", to the Department's knowledge, only the One Hundred Academy of Excellence and Imagine Schools have attempted to inaccurately portray their achievement. The poor academic performance of the One Hundred Academy under Imagine Schools can perhaps, at least partially, be explained by a lack of properly licensed teachers. In FY 2008, only twelve of the thirty core subject teachers employed by the school were properly licensed with only three of those twelve licensed teachers meeting Highly Qualified requirements. Of the remaining eighteen teachers in core subjects: thirteen were licensed as substitutes only; four were not licensed at all; and one was teaching out of their field. It should also be noted that neither the One Hundred Academy nor Imagine Schools participated in Teacher Licensing Training provided by the Department on April 21, 2008. The lack of properly licensed teachers can perhaps, at least partially, be explained by poor salaries perhaps because of funding priorities that benefit the EMO rather than the school and its pupils. Based on FY 2008's licensed teacher contract salaries compared to six other similar Nevada site-based charter schools, the One Hundred Academy of Excellence under Imagine Schools paid on the average only 70% to 75% of the average licensed teacher salaries of those other charter schools. It appears that excessive EMO management fees and exorbitant building lease payments took precedence over a teacher's salary scale that would actually attract and retain properly credentialed teachers.

Mr. Arensdorf reported the Committee to Form, which may include individuals on the Governing Board, seemed to turn over most of the operation and management of the school to a contractor. From the application, the Department believed the Committee to Form the school and thus the Governing Body relegates most, if not all, of the entire educational responsibility to the proposed contractor, which would abdicate its statutory authority. Under Nevada Law, charters were granted to a Committee to Form a school and not independent contractors. Mr. Arensdorf pointed out Article IA on page 37 of Board packets. Secondly, the Governing Body appears to relegate supervision of the entire school staff to the proposed contractor including those teachers and other staff employed by the Governing Body. There are a percentage of teachers that can be employed by an EMO. However, this contract passes this authority to the EMO as listed in Article 1B on page 37 of Board packets. Thirdly, Article IC and Article ID on pages 37 and 38 of Board packets circumvented the State's Local Government Purchasing Act. Article VA on page 43 of Board packets violates the provision that certain revenues are not subject to fees paid to a contractor. The fees would also exclude designated special revenues including those from Federal funds.

James Wells, Deputy Superintendent, Fiscal Services, reported the application was divided into two components: the educational program and school governance and a sound business plan. The NRS requires an applicant only file a financial plan for an audit and guidelines for liability if the school closes. The NAC requires an applicant submit a budget for the first two years of operation, a cash flow statement, and a pre-opening budget. The Department has provided application instructions for providing reasonable estimates, stressing the importance of conservative estimates, and identifying key areas such as building cost and sponsorship fees. Imagine School at Las Vegas has submitted the required two-year budget and identified serving 325 students in the first year and 425 students in the second year all from Clark County. The ending fund balance for the first year was projected at \$273,000 and \$579,000 for the second year. This information

was received by the Department from the Committee to Form's latest submission on December 17, 2007. The budgetary component of the application had previously been deemed complete and compliant; however, there was an oversight that the school did not complete the required cash flow statement so that was an inaccurate statement within the response to the school. In addition, there were several other errors and inconsistencies in the budget and the financial plan submissions dated December 17, 2007 and January 29, 2008. First, the applicant has not provided sufficient detail or supporting documentation to justify operating expenses to the Department's satisfaction, which is necessary to judge whether or not the budget projections reflect reasonable estimates by the applicant. Also, if there were any inflation inconsistencies that are not tied to enrollment increases, they need to be identified with an explanation of how that was determined. Second, the applicant's budget contains projected teacher salaries that all reflect entry-level teachers at a salary of \$33,000 per year. The applicant justified this with a comment in their application by stating: "Statistics show salary ranges around the country ranging from \$24,000 in Montana to almost \$33,000 in Rhode Island"; however, the average teacher salary in Clark County is \$37,000. Third, expenditures were identical to the budget submitted for Imagine School at Mountain View which projects an enrollment of 175 more students in the first year. Another Article submitted in Board packets stated Imagine submitted eight identical applications in Florida that only differed in name. Since, the applicant did not account for different expenditures for schools with different enrollments there is no way to confirm the budget contains realistic expectations or accurate estimates. Accurate budget projections and cash flow statements are critical tools for management to minimize the risk of ending up in deficient positions. Imagine Schools in both Nevada and in other states have experienced significant operating deficits. As a result, Florida sponsors are taking a more critical look at the finances of the applicants' who engage Imagine Schools to operate their charters. In Nevada, it is a violation of State Law for a local government to operate in a deficit position. Imagine covered the deficit of almost \$285,000 by waiving some of the fees, but it underscores the need for a sound business plan. Fourth, the budget includes a \$250,000 start-up fund that is identified in the budget as being received from the EMO, which is consistent with the draft EMO agreement in Article VJ on page 47 of Board packets. The subsequent section also discusses operating advances available through the school and requires that the operating advances and start-up contributions never exceed \$250,000. Because they have already received a \$250,000 in the first year, they would not be eligible for operating advances under the agreement in place. Fifth, the January 29, 2008 submission included a proposed lease for temporary space that would suit approximately 150 students, which is far short of their projected enrollment for the first year. This was also the same exact lease submitted with the application for the Imagine School at Mountain View. Seventh, the Department had concerns that the individual who would be Imagine Schools Corporate Financial Educator who will provide support, training, and insight on school financials and accounting is well versed in Nevada Law and regulations. Eighth, reserves and ending fund balance included in the budget appears to be excessive when compared to other charter schools in school districts. Lastly, the application states in Section 5.6 that "Imagine Schools has never had a school close under its operation", which contradicts a statement from the Palm Beach Post which noted that, nationally, two dozen Imagine Schools had either shut down or cut ties with the company. These inconsistencies bring into question other elements of the application and the integrity of the application as a whole. Therefore, the Department would not recommend approval of this application by the subcommittee or the State Board. The State Board could continue the waiver to the moratorium that has been offered to this school as an alternative.

Gary Horton, DSA Administrator, Department of Education, reported schools run by this EMO have noted a number of distressing issues including: excessive management and overhead fees; a convoluted and abusive lease arrangement appearing to mask another fee for the EMO and its leasing subsidiary; violation of Nevada Procurement Laws; costly errors in enrollment; violation of the State's teacher licensing requirements; low teacher salaries and the use of substitutes and non-licensed teachers for core subjects; and extremely poor academic in student performance. Mr. Horton stated his comments deal with objections specifically to the contracts. He also noted comments were no longer submitted after the Department submitted their concerns

twice. There were five major areas of concern within the contract: First, the violation of the State's Procurement Laws through pervasive sole-source purchasing and the use of an affiliated leasing company without open bidding; Second, non-specified fee structures and an objectionable four percent overhead fee used for national marketing some of which has been very deceptive; Third, an inappropriate EMO expenditure authority affectively by-passing the authority of the Governing Body; Fourth, the use of advance funding forced upon the school and included in the budget merely to balance the budget; and fifth, a contract admissions on hiring and reporting of the school's principal and the CFO, which were abuses that have been seen with One Hundred Academy of Excellence which resulted in both deficits and funds owed to the EMO. Mr. Horton quoted an Article which states: "The results of excessive management overhead fees by this EMO and disguised lease payments are all the same, poor academic performance". In a Palm Beach article, it was noted that just twenty-seven percent of Imagine's charter schools received an A or B grade while sixty-six percent of public schools statewide in Florida received a top ten grade. It appears Imagine School's goal was not about teacher quality or pupil performance or classroom needs, but fees and profits.

Mr. Arensdorf clarified the Department's recommendation was not to grant a Subsection 7 Charter for Imagine School at Las Vegas.

Member Ruggiero requested to know what the Department would consider if there was a desire to continue this application. Mr. Wells stated, if there was a desire for this application to continue going forward, an extension may be granted under the current moratorium because the applicant would not be able to re-submit under the current moratorium.

Member Myers asked if the charter school operating in Clark County was still in operation. Mr. Wells reported the school was still in operation, but that the Department was requesting more information from the school because the school was not meeting certain State criteria or regulations. Member Myers stated she was disturbed that the information that the school was not revoked had not been provided. She reported she was unable to find information regarding poor test scores for this EMO except for the test score information provided to the Board regarding Florida and Texas, two states that have had problems with all their charter schools. Mr. Wells stated the articles provided in Board packets relate to Florida, but he did not know if Imagine operates in Texas. Member Myers reported they have been quite successful in some states based on the information she could find.

Chairperson Reid requested Department staff express their concerns for denial of a Subsection 7 Charter. Mr. Arensdorf stated their findings of fact were based on the following: A) the abdication of the Governing Board's responsibilities to operate a public school in Nevada to a contractor; B) the Committee to Form the school no longer responded to Department concerns after October 30, 2007; C) the proposed contract appears to enable the Chief Financial Officer to act as the Fiduciary Agent for the school. It was noted in Article VIA and VIC of the proposed contract that this was the responsibility of the school and the Governing Board; D) the proposed contract appears to tie the hands of the Governing Body into a forced operation giving the contractor powers that remove authority from the Governing Board. As a result, the school may be closed by the contractor if given the power to do so; E) the two-year budget submitted does not appear to contain realistic expectations. It was not based on sound and accurate estimates of operating expenditures in Clark County; F) serious deficiencies were noted by the sponsor of the charter school already in operation in Clark County and a revocation was issued by the Clark County School District last summer. Some of the deficiencies were corrected, but the school has a year to correct other deficiencies. Clark County was currently revisiting those issues, but a report is not due until August; G) there were concerns with the Department's regulatory responsibilities regarding One Hundred Academy of Excellence's incorrect monthly enrollment and attendance

reports, inaccuracies with the master register, and inaccurate student accounts during both years of operation; H) there were also concerns regarding information received from other States about this contractor.

At this time, Chairperson Reid requested the Governing Board of Imagine School at Las Vegas give their presentation. She read the names of Governing Board members as follows: Sharon Washburger; Cassie Lewis, Dr. Emil Beach; Montez Love, and Dr. Harvey Williams. It was noted none of the Governing Board members were in attendance at today's meeting.

Ron Grogan, Secretary, 100 Black Men of Las Vegas, stated he was asked by Tamara Butler, Chair of the Committee to Form, to apologize for her absence due to medical issues and to represent her. Mr. Grogan introduced himself and reported the 100 Black Men of Las Vegas entered into a partnership with Imagine Schools to open the One Hundred Academy of Excellence.

Vicki Frasier-Williams, Regional Vice President, Imagine Schools, introduced herself.

John McMillan, Attorney, Flangas McMillan Law Group, introduced himself and stated he was in attendance representing Imagine Schools.

Mr. Grogan explained the rest of the committee was comprised of a number of educators who could not be in attendance at today's meeting because they were working. Mr. Grogan read the following letter into the record on behalf of Ms. Butler:

"I will keep my opinion brief. The presence of charter schools can only enhance the education of our children by giving them options and improved opportunities especially for disadvantaged students. Imagine- with its successful track record and financial backing- should be welcomed into this community, not shunned. Again, we've complied with everything that was asked in our applications and, although it seems you doubt our decision in choosing Imagine, we have researched various different EMOs and we chose Imagine based on its proven record. Here's how I view a Board- much like yours- operates: I am personally looking forward to my school opening. I am excited and prepared to do whatever I can to ensure that my kids get the best teachers providing the best educational experience ever. Our Board is committed to giving our kids the best of the best. Respectfully submitted, Tamara Butler"

Responding to comments regarding the contract, Mr. McMillan reported the initial contract that Imagine had and uses throughout the United States was probably like a partnership between the Board and EMO. Mr. McMillan stated he changed the focus of the contract so it would be compliant with Nevada Law and so the Board would operate like other Boards in Nevada. With a PowerPoint© presentation, Mr. McMillan reviewed the handout provided to the Subcommittee which lists Department comments and the Committee to Form's responses as well as the language in the Operating Agreement that shows the Governing Board's responsibility for the school's operation.

Ms. Frasier-Williams responded to items 6, 7 and 8 in the review. Ms. Frasier-Williams reported record-keeping for the first year was a challenge because the Academy was working to get the district-required Automated Student Information System, which was not required until the second year. To this day, One Hundred Academy of Excellence has problems with the SASSI System. Just recently, the Department granted an extension because the One Hundred Academy of Excellence was still experiencing problems with the SASSI System. The One Hundred Academy of Excellence's marketing and recruiting campaign to recruit highly qualified teachers continues. The Department disallowed 39 students and 20 students this year, which was part of the deficit incurred by the school the first year, but the 39 students were present the first year. Ms. Frasier-Williams stated

she asked Superintendent Rheault and Mr. Horton about the process to reclaim those students, but had been told it was too late and that it could not be done even though it has not been found in statute where there is a limit as to when students can be reclaimed if proven the students did in fact attend the school. They believe their fees are minimal as it relates to start-up contributions and insufficient fund advances. The \$300,000 equipment fee referred to in the Department's review was not paid to Imagine Schools or any affiliation and they have tried to clarify that. The deficient and non-compliant issues listed in the document from Ellen Sloan to Tammy Bass of the One Hundred Academy of Excellence Governing Board have been addressed and were accepted by Clark County School District (CCSD) at a November 2007 meeting of the Board of Trustees. The possibility of revocation has affected enrollment, but everything that has been asked of Imagine Schools from the changing of the contract to forgiving of fees, to giving back fees paid to manage and operate the school, have been paid back to the tune of more than \$300,000 last year. Ms. Frasier-Williams stated she did not think that was indication of an EMO described in the Law that was only in the business of making money or to take from individuals. Ms. Frasier-Williams reported she was now a resident of Las Vegas, Nevada and that she took personal exception to the idea that they were in Nevada to make money. The twelve percent that was a part of the contract that they should have received was not received because they invested it back into the school.

Mr. McMillan pointed out comments under this item were similar to comments for the next item, Imagine School at Mountain View, but that there could be other issues addressed during the next item. Chairperson Reid replied the items should be reviewed separately.

Regarding Mr. McMillan's comments, Member Myers asked why the Subcommittee did not have the changes referenced by Mr. McMillan. Mr. McMillan replied, with the exception of the change in the revenue definition, the Subcommittee had the changes he discussed today as part of the October 23, 2007 submission. Mr. McCormack reported page 37 of Board packets was the most current version of the contract which pre-dates December 17, 2007 as noted on page 26, last paragraph, of Board packets. He reported the contract listed on page 37 was from the October 23, 2007 re-submission of the application. No other version of the contract has been received. Mr. Wells clarified there were no responses to the October 23, 2007 contract. Mr. McMillan clarified his comments today and the contract provisions he has provided were in the contract that he changed for the October 23, 2007 submission. Member Myers pointed out there were two different versions.

Chairperson Reid asked how much initial funding Imagine School at Las Vegas would receive if it were to open if a Subsection 7 Charter were granted. Based on the projected enrollments, Mr. Wells reported the initial DSA payments-which were quarterly or monthly, depending on the cash flow of the State- would total just over \$2 million for the first year and approximately \$2.6 million for the second year.

At this time, Chairperson Reid requested to know if Governing Board members or Committee to Form members for Imagine School at Las Vegas were present. She read the names of Governing Board members and Committee to Form members. Mr. McMillan clarified two of the members were teachers and were working at the present time.

Chairperson Reid reported she has met with members of Imagine School at Las Vegas as well as One Hundred Academy of Excellence. She stated she had concerns regarding the disconnect between the EMO and the Governing Board.

Member Ruggiero stated, from the presentations given at today's meeting, it seems the Department has significant concerns, but it also seems the applicants were trying to address those concerns. He reported conditions could be placed on a Subsection 7 Charter which could be an alternative. He requested to know what conditions the Department would recommend for granting a Subsection 7 Charter.

Due to meeting time constraints, Chairperson Reid requested that information be presented as efficiently as possible.

Mr. Wells reported issues that needed to be addressed were: 1) the cash flow statement missing from the application; 2) to revise the budget and provide the substantiated documentation of their enrollment estimates and to come up with a realistic expectation for the operation of the school; and 3) the proposed lease terms. There were also open items in the EMO that may be contradictory that may need to be addressed. A list of those items would be provided at the Saturday State Board meeting.

Mr. Arensdorf reported their significant interest would be in the revision of the contract between Imagine Schools and the Governing Board. He stated the version in Board packets was the last version of the contract they had received. No responses have been received after the October request.

Member Myers made the following motion, seconded by Member Ruggiero:

That the Subcommittee on Charter Schools recommends moving forward with the approval of a Subsection 7 Charter and that the language in the contract with the EMO be in full compliance with all Nevada statutes.

The motion carried by a vote of two to one. Chairperson Reid opposed the motion due to Department concerns.

4. Time: 3:30 p.m.: Discussion and possible recommendation that the Subcommittee on Charter Schools of the State Board receive information from Department staff regarding the status of a NRS 376.527 Subsection 7 Charter for the Imagine School at Mountain View Charter School Application.

A. Department staff will make recommendations about the completeness and compliance of the application. The Department will recommend that the Subcommittee deny the application. Although Department reviewers have found the application to be mostly complete and possibly compliant, other concerns about the school have arisen along with serious deficiencies discovered in the proposed contract between the governing body and the EMO, "Imagine Schools". The Committee to Form the School stopped communicating with the Department about October 30, 2007, and did not respond to Department inquires about continuing issues with the EMO contract.

The Department recommendation is for denial of the application for the following reasons:

- 1. Department reviewers identified concerns with the proposed Operating Agreement between the charter school and the EMO "Imagine Schools, Inc."**
- 2. The Committee to Form the School did not respond to Department inquiries about conditions in the proposed contract between Imagine School at Mountain View and the EMO, "Imagine Schools".**
- 3. The proposed contract appears to enable the Chief Financial Officer (CFO) to act as a fiduciary advocate for the contractor rather than the school.**
- 4. The proposed contract appears to tie the hands of the governing body into a forced operation with the contractor having powers that remove authority from the governing body.**
- 5. The two year budget submitted by the school as required by NAC 386.180 (4) does not appear to contain realistic expectations or sound and accurate estimates of expenditures for operation in the Clark County market for various reasons. Additionally, the school failed to provide a statement of cash flow as required by the NAC.**
- 6. Past performance of the EMO contractor with One Hundred Academy of Excellence has resulted in serious deficiencies discovered by Department staff in completing State oversight of public schools.**

7. Past performance of this EMO contractor with One Hundred Academy of Excellence and its sponsor, Clark County School District, has resulted in serious deficiencies noted in the sponsor's annual review with noncompliance findings in several areas.

8. Past performance of this EMO contractor in other states has resulted in publicly reported deficiencies including debt of the school(s), control of school(s) by the contractor rather than a public entity, and lack of proper control for financial management insuring tax payer dollars are being appropriately spent.

B. Representatives of Imagine School at Mountain View will have the opportunity to present information and evidence about the completeness and compliance of the application. Representatives of Imagine School at Mountain View will have the opportunity to present information and evidence about whether or not a NRS 376.527 Subsection 7 Charter should be granted and possible conditions related thereto.

C. The Subcommittee will discuss and possibly make recommendations concerning: 1. Whether or not the application is complete and compliant; and, 2. Whether or not a NRS 376.527 Subsection 7 Charter should be granted and possible conditions related thereto. The possible recommendations should be based upon findings of fact (reasons for its recommendations) and conclusions of law (the recommendations), separately stated. Findings of fact and recommendations must be based upon substantial evidence.

D. If the State Board denies an application, it shall include in the written notice the reasons for the denial and the deficiencies in the application. The applicant must be granted 30 days after receipt of the written notice to correct any deficiencies identified in the written notice and resubmit the application. The Subcommittee findings of fact (reasons for its recommendations) should be specific enough to assist the State Board in describing the reasons for the denial and the deficiencies in the application, if the recommendations from the Subcommittee include denial of the application.

Bill Arensdorf, Director, Office of Fiscal Accountability, stated they would follow similar procedure in presenting this item. Mr. McCormack will present information regarding the educational model.

Tom McCormack, Consultant, Office of Fiscal Accountability, reported a charter school application from the Committee to Form the Imagine School at Mountain View was received by the Department on September 1, 2007. The school would be located in Clark County and would primarily serve at-risk pupils. It would serve approximately 500 students in grades K-5 with plans to expand to 850 students in grades K-8. The school does not include a distance education program. The school was being considered for a Subsection 7 Charter because the school does not yet have a facility. The Subsection 7 Charter would need to be converted to a Subsection 5 Charter by future action of the State Board before the school could begin operation and receive State funding. Because the applicant did not achieve a complete application by the January 15, 2008 deadline for a fall 2008 start-up, a charter approved by the State Board would be for a fall 2009 start-up. Between now and then, the school would be eligible to apply for Federal Charter Schools Grants funds provided by the Department. The school intends to contract with Imagine Schools, an Educational Management Organization based in Arlington, Virginia to provide an extensive array of educational and financial services. Imagine Schools currently contracts with the One Hundred Academy of Excellence, a Clark County School District charter school. Imagine Schools also operates 51 schools in ten states. The Imagine School at Mountain View application contains several positive aspects such as: 1) the school's focus on at-risk, underserved pupils; and 2) the school's provision for before- and after-school programs. Additionally, the fall 2009 start-up date would allow the school sufficient pre-opening planning time to find a facility. Problematic aspects of the application include: 1) the operating agreement between Imagine and the school; 2) the past performance of Imagine Schools both in Nevada and elsewhere; and 3) the proposed school's budget. Imagine Schools must be considered by the Board since Imagine Schools would play an integral part in the Imagine School at Mountain View because of the extensive array of educational and financial services they would provide. Letting experience at the One Hundred Academy inform decision-making for proposed Imagine Schools is relevant and appropriate because the One

Hundred Academy and the Imagine School at Mountain View would use similar if not identical curriculums, but the One Hundred Academy scores on the 2007 State-mandated tests were some of the lowest in the State of Nevada. They avoided an AYP designation of "In Need of Improvement" for FY 2007 because they filed an appeal with the Department and was granted a waiver for the first year of operation, but there was no question that they failed to meet AYP requirements. In spite of this fact, Imagine Schools published a 2007 annual report claims for the One Hundred Academy of Excellence that: "Our students demonstrated learning gains of more than 1.2 grade levels in our first academic year. We were recognized as one of three Clark County schools achieving AYP". While there have been other Nevada schools designated as "In Need of Improvement", to the Department's knowledge, only the One Hundred Academy of Excellence and Imagine Schools have attempted to inaccurately portray their achievement. The poor academic performance of the One Hundred Academy under Imagine Schools can perhaps, at least partially, be explained by a lack of properly licensed teachers. In FY 2008, only twelve of the thirty core subject teachers employed by the school were properly licensed with only three of those twelve licensed teachers meeting Highly Qualified requirements. Of the remaining eighteen teachers in core subjects: thirteen were licensed as substitutes only; four were not licensed at all; and one was teaching out of their field. It should also be noted that neither the One Hundred Academy nor Imagine Schools participated in Teacher Licensing Training provided by the Department on April 21, 2008. The lack of properly licensed teachers can perhaps, at least partially, be explained by poor salaries perhaps because of funding priorities that benefit the EMO rather than the school and its pupils. Based on FY 2008's licensed teacher contract salaries compared to six other similar Nevada site-based charter schools, the One Hundred Academy of Excellence under Imagine Schools paid on the average only 70% to 75% of the average licensed teacher salaries of those other charter schools. It appears that excessive EMO management fees and exorbitant building lease payments took precedence over a teacher's salary scale that would actually attract and retain properly credentialed teachers.

Mr. Arensdorf pointed out the Department had other concerns about the school that relate to the budget and the deficiencies between the Committee to Form the school and the EMO. The Committee to Form the school responded to the Department review in December 2007, but there was no response regarding the continuing issues with the EMO contract.

James Wells, Deputy Superintendent, Fiscal Services, reported the application involved two components: the educational program and school governance and a sound business plan. The NRS requires an applicant only file a financial plan for an audit of programs and finances and a guideline for school closure. The NAC requires an applicant submit a budget for the first two years of operation, a cash flow statement, and a pre-opening budget. The Department has provided application instructions for providing reasonable estimates, stressing conservative estimates, and identifying key areas such as building cost and sponsorship fees. Imagine School at Mountain View has submitted the required two-year budget and identified serving 500 students in the first year and 625 students in the second year all from Clark County. The ending fund balance for the first year was projected at \$1.376 million and \$2.9 million or 150% of their operating costs for the second year. This information was received from the Committee to Form's latest submission received on December 17, 2007. The budgetary component of the application had previously been deemed complete and compliant; however, the applicant did not provide a cash flow statement so that was an inaccurate statement within the response to the school. In addition, there were several other errors and inconsistencies in the budget and the financial plan submissions dated December 17, 2007 and January 29, 2008. First, the applicant has not provided sufficient detail or supporting documentation to justify operating expenses, which is necessary to judge whether or not the budget projections reflect reasonable operation estimates. Also, if there were any inflation increases that are not tied to enrollment increases, they need to be identified with an explanation of how that was determined. Second, the applicant's budget contains projected teacher salaries that all reflect entry-level teachers at a salary of \$33,000 per year. The applicant justified this by stating: "Statistics show salary ranges around the country ranging from

\$24,000 in Montana to almost \$33,000 in Rhode Island”; however, the average teacher salary in Clark County is \$37,000, which may present difficulty to hire qualified teachers. Third, expenditures were identical to the budget submitted for Imagine School at Las Vegas which projects an enrollment of 325 students in the first year. Another Article submitted in Board packets stated Imagine submitted eight identical applications in Florida that only differed in name. Since, the applicant did not account for different expenditures for schools with different enrollments there is no way to confirm the budget contains realistic expectations or accurate estimates. Accurate budget projections and cash flow statements are critical tools for management to minimize the risk of ending up in deficient positions. Imagine Schools in both Nevada and in other states have experienced significant operating deficits. As a result, Florida sponsors are taking a more critical look at the finances of the applicants’ who engage Imagine Schools to operate their charters. In Nevada, it is a violation of State Law for a local government to operate in a deficit position. Imagine covered the deficit of almost \$285,000 by waving some of the fees, but it underscores the need for a sound business plan. Fourth, the budget includes a \$250,000 start-up fund that is identified in the budget as being received from the EMO, which is consistent with the draft EMO agreement in Article VJ on page 47 of Board packets. The subsequent section also discusses operating advances available through the school and requires that the operating advances and start-up contributions never exceed \$250,000. Because they have already received a \$250,000 in the first year, they would not be eligible for operating advances under the agreement in place. Fifth, the January 29, 2008 submission included a proposed lease for temporary space that would suit approximately 150 students, which is far short of their projected enrollment for the first year. This was also the same exact lease submitted with the application for the Imagine School at Las Vegas. The Department had concerns that the individual who would be Imagine Schools Corporate Financial Educator who will provide support, training, and insight on school financials and accounting is well versed in Nevada Law and regulations. Eighth, reserves and ending fund balance included in the budget appears to be excessive when compared to other charter schools in school districts. Lastly, the application states in Section 5.6 of the application that “Imagine Schools has never had a school close under its operation”, which contradicts a statement from the Palm Beach Post which noted that, nationally, two dozen Imagine Schools had either shut down or cut ties with the company. These inconsistencies bring into question other elements of the application and the integrity of the application as a whole. Therefore, the Department would not recommend approval of this application by the subcommittee or the State Board. The State Board could continue the waiver to the moratorium that has been offered to this school as an alternative.

Gary Horton, DSA Administrator, Department of Education, reiterated no further responses were received after the October 31, 2007. He reported his concerns regarding the contract include: the violation of the State’s Procurement Laws through pervasive sole-source purchasing and the use of an affiliated leasing company without open bidding; 2) non-specified fee structures and an objectionable four percent overhead fee used for national marketing some of which has been very deceptive; 3) an inappropriate EMO expenditure authority affectively by-passing the authority of the Governing Body; 4) the use of advance funding forced upon the school and included in the budget merely to balance the budget; and 5) a contract admissions on hiring and reporting of the school’s principal and the CFO, which were abuses that have been seen with One Hundred Academy of Excellence which resulted in both deficits and funds owed to the EMO. Mr. Horton emphasized these concerns were not addressed. Mr. Horton quoted an article about Imagine Schools’ poor performance which states: “The results of excessive management overhead fees by this EMO and disguised lease payments are all the same, poor academic performance”. He emphasized that this EMO-run charter school and others being planned will be forced into a sole-source building contract arrangement with a wholly-owned leasing subsidiary of Imagine Schools, Inc. school house finance. There was concern about how much fees and DSA payments would go towards building payments and how much would be retained by the EMO and their leasing subsidiary as another form of management fees. School House Finances convoluted sale and lease back arrangement with a Virginia-based real estate investment trust, JER Investors Trust or JERIT has raised concerns about a profit-sharing relationship among the participates and the ability of the school to satisfy its

educational needs after paying for space. JERIT officials have admitted that the lease payments made by One Hundred Academy of Excellence were split between the writ and the EMO hence it appears the lease was being used as another form of fee. A float chart has been provided in Board packets of how this works. Mr. Horton stated that, in his opinion, Imagine Schools and their other subsidiaries were devising new ways to make money for themselves at the expense of the schools and the pupils with whom the EMO contracts. He stated he truly believed the EMO was only remotely interested in public education in Nevada and student needs and only to the extent that their access to DSA funding was not jeopardized.

Mr. Arensdorf reported the Department's concerns were similar to those of the operating agreement for the Imagine School at Las Vegas. The only difference between the two contracts was that Article 11E named Allyson Wallace as the Liaison for the Committee to Form the Imagine School at Mountain View and Tamara Butler was named as the Liaison for the Committee to Form the Imagine School at Las Vegas. The Committee to Form the school did not respond to Department inquiries about the contract or the EMO after October 30, 2007, which may be indicative of future patterns of the relationship between the sponsor and the school. The proposed contract appears to enable the Chief Financial Officer (CFO) to act as a Fiduciary Advocate for the contractor rather than the school. Article VIA and VIC relegates personnel hiring decisions to the contractor which may include hiring a CFO. The proposed contract appears to tie the hands of the Governing Body into a forced operation with the contractor having the authority and the power to take away from the Governing Body. The two-year budget submitted does not appear to contain realistic expectations and accurate estimates of expenditures. In addition, the school has failed to provide a cash flow statement as required. Concerns regarding the past performance of this EMO regarding One Hundred Academy of Excellence include inadequate record-keeping in that the master register could not be reconciled to the required State Ethnic Report. Since September 2007, incorrect monthly enrollment and attendance reports have been submitted to the Department. The Department has requested several times for corrections, but has failed to receive any reply. The Department's Teacher Licensing Office has identified twenty-eight teachers not meeting the highly qualified requirements or licensing. In addition, the Department has also identified a possible school employee with a possibly altered teacher license. The Department has requested an investigation, but the school has failed to follow-up on the matter. The Department disallowed 39 students last year as improperly enrolled and 20 students this year. The cost of school operations with this EMO appears to be excessively high compared to the cost of instructional services to other students in other public schools; Mr. Arensdorf cited the 8% management fee, the 4% overhead fee, the \$300,000 equipment fee, and an annual base rent of approximately \$1 million to school house finance. Mr. Arensdorf stated this was approximately 35% of the revenue that the school would receive from DSA funding. The Department required a report from the contractor listing the funds they receive from the school and how the funds were spent, but a report has not been received or has not been given accurately to their sponsor at Clark County. It was reported the school was in compliance with all of the revocation issues that were noted in last year's review. Mr. Arensdorf pointed out on page 117 of Board packets, a letter dated March 24, 2008 from Jack Gordan stated: "To date, 100 Academy/Imagine Schools has demonstrated a total inability to live up to the commitments made in their Charter as relates to providing the minimal appropriate services to students with disabilities. Further, no pro-active leadership has occurred to address and/or resolve the issues." Because of these concerns, the Department recommended denial of a Subsection 7 Charter for Imagine School at Mountain View.

Member Myers requested to know if the budget information provided was not complete or not compliant since the budgets for Imagine School at Las Vegas and Imagine School at Mountain View were both broken down and seems to reflect the different enrollments. Mr. Wells stated the information he has seen at today's meeting showed an identical expenditure budget. There was no documentation to show a difference in operating budgets on the expenditure side.

At this time, Chairperson Reid requested to know if Governing Board members were present. She read names of Governing Board members.

Allison Wallace, Liaison, Imagine School at Mountain View, introduced herself.

Vicki Frasier-Williams, Vice President, Imagine Schools, introduced herself.

John McMillan, Attorney, Flangas McMillan Law Group, introduced himself and stated he was in attendance on behalf of Imagine Schools.

Kristine Miller, Committee to Form member, Imagine Schools, introduced herself.

Ms. Wallace stated the Committee to Form wanted to develop a school that would focus on at-risk students. They had a vision and a goal which was to create an alternative educational opportunity for the development and operation of a charter school. She explained Imagine Schools was an advisor to assist with their vision and goal. She expressed her support of Imagine Schools.

Mr. McMillan requested that his previous comments be incorporated into the record, if acceptable. Deputy Attorney General Irvin explained this was a separate due process hearing therefore he suggested Mr. McMillan present the comments he feels appropriate for this hearing. Mr. McMillan stated he submitted a complete presentation package to the Subcommittee with all of the information he had verbally presented previously and requested that it be included in the record as his presentation for this item also. Deputy Attorney General Irvin requested to know why presentation packages were being submitted on behalf of the applicant when Mr. McMillan stated he represents Imagine Schools, the EMO. Mr. McMillan replied the issues being addressed by the Department were strictly applicable to Imagine Schools. Deputy Attorney General Irvin stated Mr. McMillan had made representations relating to his interpretation of the contract that would be entered between the two entities. He asked how Mr. McMillan could serve both at the same time. Mr. McMillan stated he was not representing the schools. It was the same contract for both schools, which he stated he was representing for the record. He represents Imagine Schools in terms of the contract and that all of his previous comments with respect to Imagine School at Las Vegas were also contained in a separate packet for Imagine School at Mountain View. To save some time for the Subcommittee, comments were in the packet which he would like to submit into the record. Deputy Attorney General stated for the record that he was quiet during the other hearing and that, in this hearing, Mr. McMillan addressed a specific issue which was the presentation of evidence and that, under NRS 233B, there needs to be authentication, which was why he asked Mr. McMillan the questions he asked. He stated Mr. McMillan could submit the packet into the record if he did not have concerns about the potential conflict. Mr. McMillan replied he did not see the conflict and would submit the packet. Mr. McMillan added, regarding the hiring of highly qualified teachers, he did not feel that was applicable during this hearing according to NRS 386.590, subsection 3.

Regarding scores and gains of their students, Ms. Frasier-Williams reported One Hundred Academy of Excellence was designated AYP at the present time on the Clark County School District website. Imagine Schools believes learning gains is a much better gauge of both student progress and teacher effectiveness. Students were tested in the fall and in the spring to measure how much students were moved forward during a year. She stated for the record that funding used to build the school came from Imagine Schools. DSA funding was not used. Ms. Frasier-Williams reported Mr. Horton's comments regarding JERIT came from an article. Palm Beach County has since approved the application up for consideration. Due to previous conversations over the last two years with Tom McCormack and Ellen Sloan from the Clark County School District, they were attempting continuity of the operating agreement, the curriculum design, and Special Ed between Imagine

School at Las Vegas and Imagine School at Mountain View. She stated for the record that she asked the Governing Bodies to review the contract with their attorney to ensure compliance with the Law. Lastly, Ms. Frasier-Williams reported every portion of the application was deemed complete and complaint. They received the document which stated they did not address some portion of a cash flow statement on Friday. It was never their position to not respond or resubmit documents that were needed.

Member Ruggiero asked when Mr. McMillan was hired and when he re-structured and re-submitted the contract to the Department. Mr. McMillan replied he was hired during the summer 2007. At that time, he received a copy of the corporate contract which he then revised to be in compliance with Nevada Law. The second submission was issued on October 23, 2007.

Member Ruggiero requested Department concerns be a condition if a Subsection 7 Charter was approved in order to get some specificity when the applicant requests a full Charter at a later date. He stated his concerns for Imagine School at Mountain View were the same concerns as for Imagine School at Las Vegas.

Member Ruggiero made the following motion, seconded by Member Myers:

That the Subcommittee on Charter Schools recommends approval of the Subsection 7 Charter for Imagine School at Mountain View.

The motion carried by a vote of two to one. Chairperson Reid opposed the motion due to Department concerns.

5. Public Comments

Due to meeting time constraints, Chairperson Reid requested two (2) minutes for public comment.

Ron Grogan, Secretary, 100 Black Men of Las Vegas stated he was a volunteer for Imagine School. He commended Imagine Schools and their efforts.

Kristine Miller, Imagine Schools, stated she was a founder of a non-profit organization that assists children at One Hundred Academy of Excellence and that they do not receive funding, but only assists children on improving grades.

Elisa Stewart, Imagine Schools, reported she was a fourth grade teacher at One Hundred Academy of Excellence. She commented on the efforts put forth for at-risk children at One Hundred Academy of Excellence and from Imagine Schools.

Member Myers thanked Ms. Stewart for her comments and stated salaries were not important, but what works for students.

Chairperson Reid thanked everyone for their attendance.

6. Adjournment

The Subcommittee on Charter Schools meeting was adjourned at 4:53 p.m.