

1 BEFORE THE STATE PUBLIC CHARTER SCHOOL AUTHORITY

2
3 IN RE:

4 NEVADA CONNECTIONS ACADEMY

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6
7 **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

8 This decision addresses the Notice of Intent to Revoke Written Charter of
9 September 30, 2016, and Notice pursuant to NRS 388A.330(1)(e) of February 10, 2017,
10 brought by the State Public Charter School Authority (“SPCSA”) Staff and concerning
11 Nevada Connections Academy (“NCA”).

12 The Notice of Intent to Revoke the Written Charter of September 30, 2016, (the
13 “First Notice”) was issued pursuant to NRS 388A.330(1)(e) based on the allegation that
14 NCA’s graduation rate for the year immediately preceding the notice (the graduating
15 cohort of 2015) was 35.63%.

16 The Notice Pursuant to NRS 388A.330(1)(e) of February 10, 2017 was issued
17 pursuant to NRS 388A.330(1)(e) (the “Second Notice”) based on the allegation that
18 Nevada Connections Academy’s graduation rate for the year immediately preceding the
19 notice (the graduating cohort of 2016) was 40.09%.

20 The First Notice was set for hearing December 16, 2016, but was continued after
21 counsel for NCA raised concerns about the public’s ability to give comment regarding the
22 hearing. The hearing was continued to March 30 through April 1, 2017, and consolidated
23 with the hearing regarding the Second Notice. The hearing set for March 30, 31, and
24 April 1, 2017, was then continued pursuant to a request from NCA due to the serious
25 medical condition of counsel’s immediate family.

26 The consolidated hearings were then set for hearing to take place May 25 through
27 May 27, 2017. At the conclusion of those three days, the parties agreed to complete the
28 record with supplemental affidavits and documents from witnesses submitted in

1 compliance with an order after hearing consistent with a stipulation on the record. The
2 hearings concluded with written closing arguments and oral rebuttals on
3 August 23, 2017. NCA was also allowed to submit an additional proposal for cure of its
4 deficiency with its written closing argument. However, this opportunity for submission
5 was to be made after the close of evidence and operated as a final opportunity for NCA to
6 propose a plan to cure its deficiency, not an extension of the NRS 388A.330(3) period to
7 correct deficiencies.

8 The SPCSA Staff was represented by Senior Deputy Attorney General Gregory D.
9 Ott, Esq., of the Nevada Attorney General’s Office.

10 NCA was represented by Laura Granier, Esq., and Erica Nannini, Esq..¹

11 The SPCSA Board was represented by Deputies Attorney General Robert Whitney,
12 Esq., and Edward Magaw, Esq., of the Nevada Attorney General’s Office.

13 The administrative hearing before the State Public Charter School Authority
14 Board in this matter was conducted pursuant to Nevada’s Administrative Procedure Act
15 under Chapter 233B of the Nevada Revised Statutes (“NRS”), Chapters 388A of NRS, and
16 related regulations.

17 **ISSUES PRESENTED**

- 18 (1) Whether NCA’s graduation rate for the 2015 graduating cohort was
19 below 60%.
- 20 (2) Whether NCA’s graduation rate for the 2016 graduating cohort was
21 below 60%.
- 22 (3) Whether NCA corrected the deficiency to the satisfaction of the
23 SPCSA Board.

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25 ¹ Ms. Granier and Ms. Nannini were employed by Davis Grantham and Stubbs are the
26 commencement of the proceeding, but transitioned to Holland & Hart LLP on August 17,
27 2017. However, no substitution of attorney was filed substituting Holland & Hart LLP
28 into the case, nor was any objection made by NCA to Ms. Granier’s continued
representation. Ms. Nannini did not appear at this meeting.

1 **CONCLUSION**

2 The SPCSA Board finds that SPCSA Staff has carried its burden and proven by a
3 preponderance of the evidence that NCA’s graduation rate for the 2015 graduating cohort
4 was below 60%. Likewise, the SPCSA Board finds that SPCSA Staff has carried its
5 burden and proven by a preponderance of the evidence that NCA’s graduation rate for the
6 2016 graduating cohort was below 60%. The SPCSA Board further finds that SPCSA
7 Staff has carried its burden and proven by a preponderance of the evidence that NCA did
8 not correct the deficiency to the satisfaction of the SPCSA Board.

9 Having considered the oral testimony of Patrick Gavin, Russell Keglovits, Matthew
10 Wicks, Steve Werlein, Jafeth Sanchez, and Richard Vineyard, and the submitted written
11 declarations of Joe Thomas, Lisa Malabago, Gina Hames, Dianne Karp, Miranda Shults,
12 Jacki Richards, Mindi Dagerman, Tessa Rivera, Shannon Pierce, Veronica Berry, J.
13 Berry, M. Hiatt, Alexandra Castillo, Dawn Starrett, Michell Nelson, David Held, and N.
14 Held; reviewed the documents submitted as evidence as Exhibits 1 through 13, A through
15 FF, and Supplemental Exhibits 1 through 5 and A through HH; and considered the
16 arguments of counsel for SPCSA Staff and counsel for NCA, the SPCSA Board has
17 carefully considered and applied the requirements of the governing law and hereby
18 makes the following findings:

19 **FINDINGS OF FACT**

- 20 1. NCA is a charter school authorized by the SPCSA pursuant to NRS Chapter
21 388A under a written charter originally approved May 5, 2007.
- 22 2. NCA currently operates as a virtual charter school serving over 3,200
23 Nevada students and receiving over 20 million dollars in funding in the 2016 fiscal year.
- 24 3. The four year adjusted cohort graduation rate as calculated by the Nevada
25 Department of Education for NCA was 26.5% for the 2011 graduating cohort.
- 26 4. The four year adjusted cohort graduation rate as calculated by the Nevada
27 Department of Education for NCA was 36.08% for the 2012 graduating cohort.
- 28 5. NCA’s application for written charter renewal was approved on or about

1 May 30, 2013 by the SPCSA Board.

2 6. The 2013 renewal of NCA's charter was accompanied by a provision from the
3 SPCSA Board that NCA create a plan for improvements of high school graduation rates.

4 7. NCA developed a 2012-13 school improvement plan in September of 2013.

5 8. The four year adjusted cohort graduation rate as calculated by the Nevada
6 Department of Education for NCA was 33.91% for the 2013 graduating cohort.

7 9. The four year adjusted cohort graduation rate as calculated by the Nevada
8 Department of Education for NCA was 37.19% for the 2014 graduating cohort.

9 . . .

10 10. The four year adjusted cohort graduation rate as calculated by the Nevada
11 Department of Education for NCA was 35.63% for the 2015 graduating cohort.

12 11. The four year adjusted cohort graduation rate as calculated by the Nevada
13 Department of Education for NCA was 40.09% for the 2016 graduating cohort.

14 12. The five year adjusted cohort graduation rate as calculated by the Nevada
15 Department of Education for NCA was 40.93% for the 2014 graduating cohort.

16 13. The five year adjusted cohort graduation rate as calculated by the Nevada
17 Department of Education for NCA was 42.22% for the 2015 graduating cohort.

18 14. Since 2011, the Nevada Department of Education has calculated "graduation
19 rate" pursuant to Federal Regulation 34 CFR 200.19(b), issuing four- and five-year
20 adjusted cohort graduation rates.

21 15. Since 2011, the Nevada Department of Education has not calculated any
22 graduation rates other than the four and five year adjusted cohort graduation rates
23 calculated pursuant to Federal Regulation 34 CFR 200.19(b).

24 16. SPCSA Staff has interpreted the term "graduation rate" to mean the four-
25 year adjusted cohort graduation rate as calculated by the Nevada Department of
26 Education

27 17. NCA's graduation rate for the 2015 graduating cohort was below 60%.

28 18. NCA was notified of its deficient graduation rate for the 2015 graduating

1 cohort pursuant to NRS 388A.330(1)(e) through a Notice of Intent to Revoke a Written
2 Charter, dated September 30, 2016.

3 19. NCA presented a letter including a plan to increase its graduation rate on
4 December 2, 2016, which included proposed graduation rate benchmarks of 45% in 2016,
5 52% in 2017 and 60% in 2018.

6 20. NCA's graduation rate for the 2016 graduating cohort was below 60%.

7 21. NCA was notified of its deficient graduation rate for the 2016 graduating
8 cohort pursuant to NRS 388A.330(1)(e) through a Notice of Intent to Revoke a Written
9 Charter, dated February 10, 2017.

10 22. NCA presented another letter including a plan to increase its graduation
11 rate on March 24, 2017 which included proposed graduation rate benchmarks of 49% in
12 2017 and 60+% in 2018.

13 23. NCA's 2012-13 school improvement plan of September of 2013 was not
14 successful in raising NCA's graduation rate.

15 . . .

16 24. NCA failed to meet the 2016 graduating cohort graduation rate benchmark
17 of 45% contained in its December 2, 2016 graduation rate plan.

18 25. NCA presented an amended plan to improve its graduation rate in
19 conjunction with its written closing argument submitted August 14, 2017.

20 26.

21 27. NCA's efforts to improve its graduation rate since its 2013 renewal, inclusive
22 of its efforts contained in the December 2, 2016 plan have been unsuccessful.

23 28. The proposed cures as presented by NCA were insufficient to correct the
24 deficiencies in the graduation rates that the SPCSA Board found for the 2015 and 2016
25 graduating cohorts.

26 **CONCLUSIONS OF LAW**

27 The SPCSA Board determined that the SPCSA must establish by a preponderance
28 of evidence that NCA was deficient as defined by NRS 388A.330 and had failed to correct

1 that deficiency within the time allotted;

2 . . .

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4 The SPCSA Board has considered and analyzed the foregoing requirements of the
5 governing law, evaluated the evidence and argument proffered by the parties at the
6 hearing, and has concluded as a matter of law:

7 1. The term “graduation rate” as used in NRS 388A.330(1)(e) means the four
8 year adjusted cohort graduation rate calculated and published by the Nevada
9 Department of Education.

10 2.

11 3. Charter schools without an enrollment cap are not able to prevent credit-
12 deficient students from enrolling.

13 4. The SPCSA’s September 30, 2016 Notice of Intent to Revoke a Written
14 Charter was validly issued.

15 5. The SPCSA’s February 10, 2017 Notice of Intent to Revoke a Written
16 Charter was validly issued.

17 6. NCA did not correct the deficiency in its graduation rate to the satisfaction
18 of the SPCSA Board.

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In accordance with the foregoing findings of fact and conclusions of law, the SPCSA Board may proceed to determine if it is appropriate and lawful to reconstitute the governing body of NCA, revoke the written charter of NCA or take no action.

DATED this _____ day of _____, 2017.

SPCSA Governing Body

Jason Guinasso, Chair

NOTICE: Pursuant to NRS 233B.130, if any party desires to appeal this final decision of the Appeals Officer, petition for judicial review must be filed with the District Court within thirty (30) days after service of this final decision.

Submitted By:

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