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TO: Wayne Howle, Judy Chandler & John Berrier Entered into DB 11/02/2016 DB No. 1373-TM

DATE RECEIVED: 11/02/2016 REVIEWER: Taylor Musselman

CASE NAME: David & Carly Held individually and on behalf of their minor child N.H.; Veronica Berry individually and on behalf of her minor child J.B.; Red and Sheila Flores individually and on behalf of their minor child C.F.; Jaouad and Naimi Benjeloun, Individually

CASE NUMBER: 16 OC 00249 1B COURT: 1st JD - In and For Carson City, Nevada

RECEIVED FROM:

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PROLAW Not in ProLaw

DOCUMENT(S) RECEIVED: (Proposed) Order

DOCUMENTS RECEIVED FOR: _____

NOTICE

NRS 41.031(2) provides in part that, in any action against the State of Nevada, the action must be brought in the name of the State of Nevada on relation of the particular department, commission, board or other agency of the state whose actions are the basis for the suit. In an action against the State of Nevada, the summons and a copy of the complaint must be served upon the Attorney General, at the Office of the Attorney General in Carson City and upon the person serving in the office of administrative head of the named agency. **Service on the Attorney General or designee does not constitute service on any individual or administrative head.**

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Int. TM

Copy given to person delivering document(s)? Yes No

NOV 02 2016

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DAVIS
GRAHAM &
STUBBS

November 2, 2016

Clerk of the Court

First Judicial District
885 East Musser Street, Suite 3031
Carson City, Nevada 89701-3031

Re: *Held, et al. vs. State of Nevada*; Case No. 16 OC 00249 1B; Dept. I

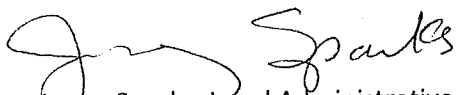
Dear Sir or Madam,

Attached is Plaintiffs' Motion for Temporary Restraining Order/Preliminary Injunction along with a proposed order. As this case involves minor children as Plaintiffs, we have only used their initials on the caption. Attached to the motion are several declarations, some of which were signed by the children using their full names, and others containing the child's name in the body of the declaration. I called the Clerk's office to ask how we should handle this situation and was advised that we should submit the declarations as is (without redactions) and the Clerk will ask the Judge how he would like to handle these issues (either redacting the originals or sealing them). The declarations at issue are Exhibits 2, 4, 5, 9, and 12.

Copies of the Motion (with redacted exhibits) and proposed order are being served on Defendants today and we will file a Certificate of Service tomorrow attesting to the same.

Please let us know if you have any questions.

Sincerely,



Jenny Sparks, Legal Administrative Assistant to
Laura K. Granier
Partner
for
DAVIS GRAHAM & STUBBS LLP

:js

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IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR CARSON CITY

DAVID & CARLY HELD individually and
on behalf of their minor child N.H.;
VERONICA BERRY individually and on
behalf of her minor child J.B.; RED AND
SHEILA FLORES individually and on behalf
of their minor child C.F.; JAOUAD AND
NAIMI BENJELLOUN, individually and on
behalf of their minor children N.B.1, N.B.2,
and N.B.3; KIMBERLY AND CHARLES
KING individually and on behalf of their
minor children L.K.1 and L.K.2; NEVADA
CONNECTIONS ACADEMY,

Plaintiffs,

v.

STATE OF NEVADA, ex rel. STATE
PUBLIC CHARTER SCHOOL
AUTHORITY, a political subdivision of the
State of Nevada, and PATRICK GAVIN, in
his official capacity as Director of the State
Public Charter School Authority,

Defendants.

Case No. 16 OC 00249 1B

Dept. No. I

(PROPOSED) ORDER

On November 1, 2016, Plaintiffs filed a Motion for Temporary Restraining Order and Preliminary Injunction. The Court now sets the matter for hearing to determine what, if any, preliminary injunction should be issued in this case.

IT IS HEREBY ORDERED that the above matter be set for hearing on

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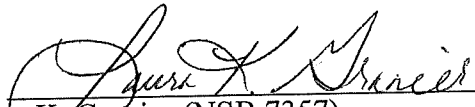
_____, 2016 at _____ AM/PM, in the District Courtroom for Department I, at
885 East Musser Street, Carson City, Nevada 89701.

Dated this _____ day of _____, 2016.

DISTRICT COURT JUDGE

Submitted by:

DAVIS GRAHAM & STUBBS LLP

By: 
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IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR CARSON CITY

DAVID & CARLY HELD individually and on behalf of their minor child N.H.;
VERONICA BERRY individually and on behalf of her minor child J.B.;
RED AND SHEILA FLORES individually and on behalf of their minor child C.F.;
JAOUAD AND NAIMI BENJELLOUN, individually and on behalf of their minor children N.B.1, N.B.2, and N.B.3;
KIMBERLY AND CHARLES KING individually and on behalf of their minor children L.K.1 and L.K.2;
NEVADA CONNECTIONS ACADEMY,

Plaintiffs,

v.

STATE OF NEVADA, ex rel. STATE PUBLIC CHARTER SCHOOL AUTHORITY, a political subdivision of the State of Nevada, and PATRICK GAVIN, in his official capacity as Director of the State Public Charter School Authority,

Defendants.

Case No. 16 OC 00249 1B

Dept. No. I

**MOTION FOR TEMPORARY RESTRAINING ORDER/
PRELIMINARY INJUNCTION**

Plaintiffs, David & Carly Held individually and on behalf of their minor child N.H.;
Veronica Berry individually and on behalf of her minor child J.B.; Red and Sheila Flores
individually and on behalf of their minor child C.F.; Jaouad and Naimi Benjelloun, individually

1 and on behalf of their minor children N.B.1, N.B.2, and N.B.3; Kimberly and Charles King
2 individually and on behalf of their minor children L.K.1 and L.K.2; and Nevada Connections
3 Academy (“NCA” and collectively “Plaintiffs”), by and through their undersigned counsel,
4 Davis Graham & Stubbs LLP, hereby move this Court for a temporary restraining order and
5 preliminary injunction pursuant to Nevada Rules of Civil Procedure (“NRCP”) 65 or, in the
6 alternative, writ relief, to enjoin the State Public Charter School Authority (the “Authority” or
7 “Agency”) from proceeding with closure proceedings against NCA. This motion is supported by
8 the attached Memorandum of Points and Authorities and declarations, and any pleadings, records
9 and files herein, and any further oral or documentary evidence provided at hearing.
10

11 12 **MEMORANDUM OF POINTS AND AUTHORITIES**

13 **I. INTRODUCTION**

14 Plaintiffs seek relief from the Agency’s unlawful decision that has forced a charter school
15 serving more than 3,200 Nevada students to choose between continuing to serve those students
16 and waiving the school’s constitutional right to have a Court review future Agency decisions to
17 put the school into receivership. The Agency issued a Notice of Revocation (the “Notice of
18 Closure”) to NCA – to close the entire K-12 school – because NCA was unwilling to waive its
19 right to judicial review. The Agency’s attempt to encroach on the powers of the judicial branch
20 to provide itself unchecked power violates the separation of powers doctrine which the Nevada
21 Supreme Court has described as “the most important single principle of government.” *Hardy v.*
22 *Commission on Ethics*, 125 Nev. 285, 300, 212 P.3d 1098, 1108 (2009).
23

24 Premised on the fundamental belief that too much power in the hands of one
25 governmental branch invites corruption and tyranny, the separation of powers doctrine prevents
26 one branch of government, such as the Authority here, from aggrandizing itself or encroaching
27 upon the fundamental functions of the judicial branch. *Id.* (citing *Clinton v. Jones*, 520 U.S. 681,
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1 699, 117 S.Ct. 1636 (1997)). “The separation of powers doctrine is the most important
2 foundation for preserving and protecting liberty by preventing the accumulation of power in any
3 one branch of government.” *Berkson v. LePome*, 245 P.3d 560, 564, 126 Nev. 492, 498 (Nev.
4 2010). Structural principles secured by the separation of powers protect the freedom of the
5 individual. *Dept. of Transp. v. Assoc. of American Railroads*, 135 S.Ct. 1225 (2015). This
6 Court’s review is the only protection available to stop the Agency from stripping the school of its
7 rights to judicial review or facing closure for having refused to waive its constitutional and
8 statutory access to the courts. This Court is the only protection the plaintiff students have to
9 protect their right to school choice and to preserve their ability to receive a publicly funded
10 education at the school they and their parents have determined best supports their respective
11 needs and aspirations.
12

13
14 The Agency has ignored its own prior decisions directing the school to prepare and
15 implement a Graduation Rate Improvement Plan and ignored substantial evidence that NCA is
16 effectively serving a significant population of transient and credit deficient students. The
17 Agency is unlawfully proceeding with closure against the entire school – grades K-12 (including
18 a highly rated middle school) when the only issue the Authority ever has identified of concern is
19 with the high school. With respect to the high school, the Agency is aware that it is the school’s
20 continuing acceptance and service of credit deficient students that is pulling down NCA’s
21 graduation rate – which does not accurately reflect the school’s performance. Instead, it
22 punishes the school for accepting and serving students who have been failed by their prior
23 schools and are now finding success at NCA. Rather than consider this evidence in a meaningful
24 way to consider whether closure or receivership for the entire K-12 school would be appropriate
25 based on the school’s performance, the Agency seeks to arbitrarily set benchmarks for the high
26 school graduation rate and if those benchmarks are missed – even if the reason they are missed is
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1 because the school is effectively serving a large population of credit deficient students – put the
2 entire K-12 school into receivership with no Agency hearing and no right to Court review. The
3 Agency’s insistence on the school waiving its rights to judicial review results in a contract term
4 that would be void *ab initio* for procedural unconscionability given the public policy issues and
5 the grossly unequal bargaining power. Accordingly, the Agency’s unlawful and arbitrary
6 decision to proceed with threatened closure of NCA, including its four-star middle school,
7 should be enjoined before the school and its students suffer irreparable harm. Alternatively, a
8 writ should issue prohibiting the Agency from proceeding to act on the Notice of Closure and
9 mandating that the Agency follow its own State Performance Framework.
10

11 **II. FACTUAL BACKGROUND**

12 **A. The Agency’s Decisions Puts Thousands of Students’ Education at Risk**

13 Plaintiffs David and Carly Held are the parents of minor child N.H., a 9th grade student at
14 NCA who has been enrolled in NCA since 2013 and is flourishing with the NCA program in
15 honors classes and Japanese all while he has undergone eight brain surgeries which would have
16 interfered with his ability to attend a traditional brick and mortar school. *See Exs. 1 and 2*, Held
17 Declarations. Plaintiff Veronica Berry is the parent of minor child J.B., who has Asperger’s
18 syndrome and suffered from intolerable bullying in his former school where other students
19 harassed him, boys would throw water bottles at him in the locker room and he was threatened
20 by a boy who said he was going to “slit his throat and feed his head to his dog.” He was afraid
21 to go to school and potentially suicidal when he enrolled in NCA in 2012 for the 7th grade and
22 since then, in Ms. Berry’s words, “his life has been nothing but positive” as he “is excelling in
23 school, he has a social life, he isn’t afraid on a daily basis to go to school anymore.” J.B. is
24 thriving at NCA, currently on-cohort in the 11th grade. *See Declaration of V. Berry, Ex. 3.*

25 Plaintiffs Red and Sheila Flores are the parents of minor child C.F. who enrolled at NCA
26 halfway through the 2014-15 school year having left Centennial High School in the Clark
27 County School District where she accumulated only 4.5 credits over her freshmen and first half
28

1 of her sophomore year after experiencing difficulty in class and with attendance because of her
2 need for medical treatment and monitoring for her diabetes. After being told by her prior school
3 that it was impossible for her to graduate on time, she enrolled at NCA and in 1.5 school years
4 has accumulated 8.0 credits with NCA and is now back on track to graduate on time or even
5 early. *See Ex. 28*, Declaration of S. Flores.

6 Plaintiffs Jaouad and Naima Benjelloun are the parents of minor children N.B.1 who
7 currently is enrolled in 9th grade at NCA, and N.B.2 and N.B.3 who are enrolled in 7th grade at
8 NCA. The Benjellouns enjoy the highly individualized learning and rigorous curriculum at NCA
9 which they believe has and continues to prepare them for college and careers similar to what it
10 did for their older brother who graduated from NCA at the age of 14 and now serves as the CEO
11 of Tech-Start, a company that prepares young children for their future world of technology and
12 computers. Their other older brother graduated from NCA and now attends the UNLV Honors
13 College and is on a team for the nation-wide home-building competition, the Solar Decathlon.
14 *See Benjelloun Declarations, Exs. 4, 5, 6 and 7.*

15 Plaintiffs Kimberly and Charles King are the parents of minor children L.K.1 and L.K.2
16 who live in a rural area of Nevada where NCA provides opportunities for students that are
17 otherwise unavailable. Each of the individual students described above and many others
18 discussed herein and in the attached declarations have identified NCA as their school of choice
19 for their education in Nevada. *See* article from Las Vegas Review Journal dated Oct. 27, 2016,
20 **Ex. 8** (noting the importance of NCA as a choice for many students including those who have
21 suffered intolerable bullying); *see also* Declarations of A. Castillo, D. Starrett, P. Carey and M.
22 Nelson, **Exs. 9, 10, 11 and 12.**

23 NCA is an accredited, comprehensive, online public charter school serving approximately
24 3,200 students in Kindergarten through 12th grade across Nevada. NCA provides highly
25 individualized learning opportunities for students and provides Nevada youth an innovative
26 option under its charter granted in 2007 and renewed in 2013. NCA's high school serves some
27 of our State's most at-risk youth who come to NCA behind in credits and, sometimes, as a last
28 resort before dropping out of high school altogether. In addition to successfully serving all of its

1 students in all grades, NCA has demonstrated success in reengaging credit-deficient students and
2 helping them graduate from high school, sometimes against all odds.

3 Many students who are credit deficient when they enroll in NCA will not graduate within
4 their four-year cohort as a result of having gotten behind at schools prior to enrolling with NCA.
5 NCA is particularly proud of the accomplishments of its credit deficient students and continues
6 to put in place resources and programs targeted at helping them to attain their goal of graduating,
7 regardless of whether that requires them to graduate a year or even two years after their peers.
8 For NCA, the perseverance of these students to successfully complete high school is an
9 inspiration, something to be celebrated; not a badge of failure, a reason to close the very school
10 dedicated to supporting and celebrating their spirit of perseverance. The Agency's actions to seek
11 closure of NCA in retaliation for NCA's refusal to give up its right to judicial review is
12 punishing these and all the students NCA serves because its credit deficient students have
13 refused to give up on themselves. They need and deserve this court's protection and will be
14 irreparably harmed if that protection is not afforded them.

15 NCA's high school graduation rate for students who enrolled in NCA on cohort and
16 stayed through the end of their senior year in 2015 was 73.3%. Approximately 50% of the
17 students that were part of the 2015 graduation cohort were behind in credits when they initially
18 enrolled at NCA. This means that even if every single student accumulated credits at a normal
19 on-track rate from the moment they enrolled in NCA, the school's graduation rate still would be
20 barely over 50% -- and the school would be subject to discretionary closure under SB 509 if
21 substantial evidence supported that (which it does not here¹). **Over 40% of the non-graduates**
22 **in the 2015 cohort were enrolled in NCA for less than three-fourths of the year** – meaning
23 NCA had very little time to influence their on-time graduation status and their credit deficiencies
24 do not reflect NCA's performance but the performance of their prior school(s). Nearly 50% of

25
26 ¹ On March 25, 2016, the Agency held a hearing (discussed more broadly in section B below) on whether
27 to issue a notice of closure to NCA and heard evidence from NCA in contemplation of that considered
28 action. The fact that the Agency did not issue a notice of closure following the receipt of that evidence,
but instead directed NCA to develop an improvement plan, which the Agency in a later hearing approved,
demonstrates that even the Agency does not believe there is substantial evidence to support closure of the
school.

1 students enrolled in NCA qualified for the free or reduced lunch program.

2 NCA's most recent rating by the Nevada Department of Education ("NDE") identifies
3 NCA's middle school as a "4 star school" based on student achievement information which,
4 according to the NDE means NCA is "among the higher performing schools in Nevada in
5 student proficiency and/or student growth on the State assessments." According to NDE, the
6 rating of NCA as a 4-star school "is acknowledgment for its achievement with public recognition
7 and has some autonomy and/or flexibility in school planning and decision-making." This 4-star
8 middle school is currently the subject of the Agency's closure proceedings.

9 **B. The Authority Board Declined Staff's Request to Issue a Notice of Closure to**
10 **NCA in March 2016**

11 The last written performance evaluation NCA received from the Authority stated that the
12 school was in "good standing." NCA never received any notice of concern, notice of breach or
13 any other communication from Authority staff expressing concerns about the high school's four-
14 year cohort graduation rate or any other academic performance. On February 22, 2016, with no
15 communication expressing any concern, notice by letter, phone call or otherwise, NCA received
16 a copy of a publicly posted agenda for the Authority's February 26, 2016 meeting which
17 included consideration of issuance of a notice of closure to NCA. Apparently based on the lack
18 of notice and that NCA was not even advised why it was included in the agenda item, the
19 Authority took no action on the item in February 2016. Although NCA attended the meeting and
20 stayed until the end to publicly comment, the Authority chairman announced at 4:30 PM they
21 had to clear the room they were in and adjourned the meeting before NCA representatives had
22 the chance to complete their public comment. *See* S. Werlein Declaration, **Ex. 13**.

23 After the Agency's February meeting, through discussions with Director Gavin, NCA
24 learned that it had been placed on the agenda solely because its high school four-year cohort
25 graduation rate for the prior year was below 60%. Director Gavin confirmed he had no other
26 issues with the school – no performance or other concerns with NCA's grades K-8 and no other
27 concerns with NCA's high school. Director Gavin asserted that under Senate Bill 509 from the
28 2015 Legislature ("SB 509") the Authority would consider whether it should issue a notice of

1 closure to NCA based on the prior year’s four-year cohort graduation rate for NCA’s high school
2 grades and that NCA was included to treat all “similarly situated schools equally.”² This was in
3 direct contradiction to his statement, on September 1, 2015, when NCA’s Board President,
4 principal and counsel met with Mr. Gavin to discuss this very issue under SB 509 and work with
5 the Authority if it had any concerns, Mr. Gavin was dismissive of the possibility indicating that
6 he had “bigger fish to fry” than NCA in the upcoming year. *See* Declaration of J. Sanchez, **Ex.**
7 **15**.

8 SB 509 provides that the Authority “**may**” consider closing a charter school if it is a high
9 school and its graduation rate for the previous year is below 60%.³ N.R.S. 388A.330 This
10 provision was revised from a mandatory provision in an earlier draft of the bill that would have
11 required closure. **Ex. 16**, Senate Committee on Education Hearing. Rather than mandate closure
12 for such schools, the legislation gave the Agency discretion to consider the possibility of closure
13 if compelling and substantial evidence supported such a decision. Compelling and substantial
14 evidence means the Authority must consider actual performance information and student
15 achievement – beyond just a single data point that penalizes the high school for serving credit-
16 deficient students. In this case, the substantial evidence includes data and information that
17 demonstrates there is significant student growth, the school is performing well and is effectively
18 serving some of our most vulnerable youth, as well as some of our highly gifted and talented
19

20 ² Mr. Gavin’s statement is of particular interest, given that the only two schools the Authority moved
21 against had, at the time, declined to waive their rights to judicial review. Clearly, the Authority’s actions
22 have nothing to do with school performance and everything to do with its desire to place a barrier
23 between these schools and the Nevada Judiciary. Mr. Gavin also has made public statements that these
24 closure proceedings are arising out of political pressure – more evidence it is arbitrary and capricious and
25 requires this Court’s oversight and correction. *See* **Ex. 14**, Declaration of J.W. Ragley; **Ex. 19**,
26 Declaration of Peter Robertson.

27 ³ NRS 388A.330 provides that “the sponsor of a charter school . . . **may** revoke a written charter . . .
28 before expiration of the charter if the sponsor determines” that . . .

(e) The charter school is a high school that has a graduation rate for the immediately preceding
school year that is less than 60 percent;

(f) The charter school is an elementary or middle school or junior high school that is rated in the
lowest 5 percent of elementary schools, middle schools or junior high schools in the State in pupil
achievement and school performance, as determined by the Department pursuant to the statewide
system of accountability for public schools . . .”

1 youth. An objective review of all the metrics related to NCA's performance does not present
2 substantial evidence that would support a notice of closure based on the school's four-year
3 cohort graduation rate. And issuing a notice of closure because a school refuses to waive its
4 right to judicial review of the Agency's decision making is so far outside the norm of any
5 agency's delegated scope of authority, it is not even contemplated by the statute – nor would it
6 be appropriate or constitutional for it to be so contemplated.⁴

7 Prior to the March 2016 meeting, NCA provided the Authority detailed information about
8 the four-year cohort graduation rate. For example, the school explained that of the non-graduates
9 for 2015, 40.9% of them enrolled with NCA in the 12th grade; that 6 of the non-graduates
10 enrolled with NCA for one month or less and one student was enrolled with NCA for only 14
11 days. See Letter to NCA Board, March 24, 2016, **Ex. 17**. This demonstrates that NCA is being
12 penalized for enrolling these students when, in fact, it was at their former schools, not with NCA,
13 where they fell behind. Yet once they enroll in NCA they result in a decreased four-year cohort
14 graduation rate for NCA. Another 14 of the students identified as “non-graduates” have enrolled
15 in a post-secondary institution, calling into question whether these students really are non-
16 graduates. Moreover, NCA questioned the Authority's retroactive application of SB 509 to
17 consider closure based on the preceding year's graduation rate and continues to challenge such
18 retroactive application; however, that was not the reason for the Notice of Closure which the
19 Agency issued because NCA resisted the forced waiver of its judicial rights.

20 In March 2016, the Authority again placed NCA on its agenda for consideration of
21 issuance of a notice of closure. After allowing NCA an opportunity to present evidence to the
22 Authority Board, the Board voted and did not pass any motion to proceed with such closure.
23 Instead, the Authority considered evidence presented by NCA that this single data point – the
24 four year cohort graduation rate -- did not reflect how the high school was doing (and had no
25

26 ⁴ Moreover, as discussed below, NCA's charter is not for a high school but for a K-12 school and there is
27 no legal basis or authority to close the entire school based on the four-year cohort graduation rate as is
28 clear in N.R.S. 388A.330 which sets forth different standards for considering closure of an elementary
and/or middle school – none of which apply here, particularly given NCA's middle school's high rating
by the State.

1 relevance to the school's performance in grades K-8), and directed that NCA work with the
2 Authority Staff on a graduation rate improvement plan. The Authority's March 2016 decision
3 acknowledged that the evidence relevant to the "graduation rate" included that NCA's graduation
4 rate approached 80% when calculated based upon students enrolled at NCA for all four years of
5 high school and that NCA's four-year cohort rate was being significantly negatively impacted by
6 students who come to the school credit deficient and, therefore, cannot graduate "on track."
7 NCA also raised that students who are highly mobile also decrease NCA's graduation rate
8 because they are counted as "drop outs" even if they might be enrolled at another school but
9 have not been reported in the system or matched to their new school. In addition, inconsistent
10 with new requirements being implemented under Federal law (the Every Student Succeeds Act),
11 students who enroll in NCA for less than one week before the end of the school year, if they are
12 credit deficient, decrease NCA's four-year cohort graduation rate – giving the false impression
13 based on this single data point that NCA had somehow failed in providing such a student a
14 "good" high school education. This creates a perverse incentive for schools to counsel students
15 out and NCA has been receiving increasing numbers of such students. It also creates an
16 incentive for schools, such as Nevada Virtual Academy, to turn away students who try to enroll
17 in the school during their 4th year of high school, a violation of Nevada law, in order to avoid
18 being penalized for having a subpar graduation rate. **Ex. 18**, Minutes from SPSCA Meeting (the
19 school's admission and an Authority Board member's acknowledgment this was unlawful); **Ex.**
20 **27**, Emails between NVA and Agency.

21 **C. As the Authority Directed, NCA Prepared a Graduation Rate Improvement**
22 **Plan which the Authority Praised in May 2016 & Directed be Implemented**

23 In response to the Authority's directive at its March 2016 meeting, NCA spent several
24 weeks and significant resources working collaboratively with the Authority Staff and NCA's
25 own team of experts to prepare what the Authority recognized to be a very commendable
26 graduation rate improvement plan. **Ex. 13**, Werlein Declaration at Exhibit B, Graduation Rate
27 Improvement Plan; **Ex. 20**, Excerpts of Transcript from May 2016 Agency hearing praising plan.
28 NCA's Plan started with a cohort analysis that detailed every student in the 2015-16 four-year

1 cohort with regard to their credit status that guided assignment of credit deficient students to
2 programs, support and interventions, depending on their credit status, tailored to their individual
3 needs to help them earn a high school diploma. NCA already has seen success in these
4 improvements and anticipates a significant percentage point increase over 2015 performance.
5 Ex. 13, Dec. of S. Werlein. One of the benefits NCA provides its students is a highly
6 individualized approach to learning through targeted instruction, counseling and the
7 implementation and monitoring of individualized graduation plans. At the Authority's direction
8 and in collaboration with Authority staff NCA prepared a comprehensive and detailed graduation
9 rate improvement plan which the Authority reviewed and praised in a public meeting in May
10 2016. NCA took immediate action and has been successfully implementing that plan as directed
11 by the Authority. On October 10, after just 28 days of school, implementation results already
12 show a 27% decline relative to the same point last year in students' core academic courses that
13 currently have a failing grade. *Id.* Successful course completion is the key to ensuring that
14 enrolled students stay on track to graduate on time so clearly, the plan is working as intended.

15 NCA's high school graduation rate improvement plan includes regular tracking and
16 research and increased internal communication about the status of each potential cohort member
17 and his/her status upon exit and entry. The Agency's arbitrary decision making related to NCA
18 is not just evidenced by the sudden about face it did with the approval of the graduation rate
19 improvement plan. Even where NCA went the extra mile to appease the Agency and acquiesce
20 to demands not part of the Agency's March 16 directive, you see a similar pattern of ad hoc flip
21 flopping. For example, based on the demands of Director Gavin, the NCA board approved
22 identification and selection of an external evaluator (at NCA's own cost) to review the 2015 and
23 2016 graduation cohort. Director Gavin had indicated such action was necessary as part of the
24 improvement plan being accepted and the Authority considering the data and information NCA
25 was providing to explain the four-year cohort graduation rate. He indicated that data should be
26 validated to ensure it supports the conclusions regarding the student body characteristics and
27 progress NCA presented to the Agency. *Id.* Yet, recently, Director Gavin recommended to the
28 Authority that it not necessarily consider such evidence or information relative to closure

1 decisions even though the school has gone to significant expense at his request to “validate” it.
2 Not only is this evidence of the nature of the arbitrary and capricious decision making with
3 which NCA is contending, it also is further evidence of an Agency run amuck – one that wants
4 no oversight or interference with what it wants to do, when it wants to do it and however it
5 chooses to do it – not from this Court and not from any 3rd party evaluator recognized as
6 informed and credible expert in this field. Mr. Gavin’s repeated statements about closing
7 schools and particularly online schools based on political pressure explains why instead of
8 considering substantial evidence and complying with the law and policy the Agency is instead
9 focusing on a single data point and acting in a “do anything” manner to achieve the political
10 objective that has been established. Ex. 14, Ragley Declaration; Ex. 19, Robertson Declaration.
11 The NCA high school graduation rate improvement plan also provides for NCA’s use of a pilot
12 program called “GradPoint” – a leading high quality credit recovery program used by more than
13 1,000 school districts in 45 states. NCA increased its usage of this credit recovery program
14 during the summer of 2016 and has extended it into the 2016-17 school year. Ex. 13, Werlein
15 Declaration.

16 The NCA high school graduation rate improvement plan includes implementation of a
17 systemic Response to Intervention program to ensure all students are receiving timely and
18 effective instructional support and that their performance is being actively monitored. NCA also
19 is piloting a mentoring program to provide 1:1 adult mentors for any student with two or more
20 failing grades. Of those students in the pilot in the Spring of 2016, 75% passed all of their
21 courses that semester. The NCA high school graduation rate improvement plan includes
22 significant revisions in the Connections curriculum and in the school’s Education Management
23 System to address student tracking, feedback, and curricular needs for credit deficient students
24 including tracking credit accumulation. Teachers are more focused on ensuring they provide
25 high quality, timely, actionable feedback for students. NCA partnered with Connections to pilot
26 the use of a freshman specific initiative to orient students to resources available to them,
27 introduce strategies for success in high school course-level work, emphasize the importance of
28 academic integrity and producing authentic work and build college and career readiness. Based

1 on the success of this course, NCA is now also offering a course that addresses needs specific to
2 seniors. *Id.*

3 The NCA high school graduation rate improvement plan includes a detailed internal
4 approach to address the needs of off-cohort students that includes regularly required attendance
5 at virtual or face-to-face synchronous instructional sessions where the frequency, format and
6 content are tailored to student needs and tied to academic outcomes. The school also is
7 implementing very close and detailed monitoring for all students off-cohort, including progress
8 in their courses and other programming being tracked weekly by NCA staff. The Authority not
9 only accepted the NCA high school graduation improvement plan but praised it. NCA is
10 implementing it and seeing success from it. *Id.*

11 Following its favorable reaction to the plan, the Authority requested “benchmarks” to
12 measure success and improvement from implementation of the plan, noting that NCA would
13 need at least six months to a year to implement the plan and see results before having the
14 Authority again consider the potential closure of the school based on the four-year cohort
15 graduation rate. Ex. 20, Transcript of May 2016 SPSCA Meeting. NCA worked with the
16 Authority staff to identify target benchmarks for improvement of the four-year cohort graduation
17 rate with the understanding that this graduation rate depends not only on how NCA has
18 performed, but also how all of the student’s prior schools have performed. NCA pushed for
19 metrics that would reflect, for example, when NCA has successfully re-engaged students who
20 have come to the school credit deficient, rather than penalizing NCA for having accepted those
21 students, which it is required to do under Nevada law. NCA’s success in serving such credit-
22 deficient students is critical to our State and protecting our youth. Director Gavin and other
23 NDE officials assured legislators in the 2015 Session that when contemplating a possible closure
24 based on graduation rate deficiencies, other “compelling” evidence would be considered. Ex. 16
25 and Ex. 21, Excerpts of Hearings on SB 509. The consequences to NCA’s credit deficient
26 population if NCA closes and the correlation between the population served and NCA’s
27 graduation rate is the kind of compelling evidence the legislature was assured would be
28 considered, but which the Authority is now ignoring and then attempting to insulate its decisions

1 from judicial review.

2 **D. Without any Notice to or Discussion with NCA the SPSCA Director**
3 **Recommended in July 2016 that the Authority Approve NCA's Benchmarks**
4 **Only if NCA Waived its Rights to Judicial Review**

5 At the Authority's direction, NCA also worked with Agency staff to identify proposed
6 "benchmarks" for an increase in the four-year cohort graduation rate for each of the next three
7 years. In July 2016, the Authority voted to force NCA to negotiate a contract of "mutually
8 agreeable terms" with the Authority Staff not just to establish accountability measures for those
9 benchmarks but to rewrite entirely the terms of NCA's charter for the entire K-12 school all
10 stemming from the Agency's focus on the high school four-year cohort graduation rate.

11 The Authority Staff used those negotiations to demand that NCA agree to a contractual
12 provision waiving NCA's right to have a Court review a final decision of the Authority to
13 appoint a receiver or reconstitute NCA's entire K-12 school board if NCA missed one of its
14 targets for improvement of its four-year cohort graduation rate for the high school. This waiver
15 would mean that NCA would have no opportunity to provide compelling evidence demonstrating
16 its academic success with some of Nevada's most at-risk youth who enroll in NCA credit
17 deficient but manage to graduate or get back "on track" to graduate thanks to NCA. This waiver
18 would mean the Authority could put the entire K-12 school into receivership despite a total lack
19 of legal authority to do so based solely on the high school's graduation rate and despite the
20 Authority acknowledging acceptable academic achievement in all grades with the exception of
21 the four-year cohort high school graduation rate. This waiver would mean the Authority could
22 remove the entire governing board of the school without any justification other than this single
23 data point – when there is no nexus and no evidence to establish or even suggest that doing so
24 would result in an increased graduation rate.⁵ Indeed, to the contrary, removal of NCA's entire
25 school board would disrupt operations and do nothing but surrender total control of the school to
26 the Agency. This waiver would mean, the Authority could put the school into receivership with

27 ⁵ NCA's board is comprised of highly qualified and dedicated board members who have a
28 demonstrated commitment to the school and the students and who reflect the characteristics and
best practices recommended by Director Gavin. Ex. 15, Sanchez Declaration.

1 no justification (costing the school potentially hundreds of thousands of dollars to pay a third
2 party receiver), leaving the school with no right or ability to have a court review the basis for the
3 Authority's decision to do so.

4 Holding true to its practice of arbitrary and capricious decision making in this matter,
5 after weeks of discussions regarding the benchmarks, the Director presented a recommendation
6 to the Authority that the benchmarks NCA proposed be approved, but with surprising and
7 extremely prejudicial conditions never mentioned to NCA. The morning of the Authority
8 meeting, the Director's report was made available to the public and to NCA for the first time on
9 the Authority's website. It was only then NCA learned the Director was recommending that the
10 Authority approve the benchmarks only on the condition that NCA enter into the same contract
11 proposed for another school, Beacon Academy, and attached that draft contract to the staff
12 report. If ever there was need of a clear example of unequal bargaining power in the forging of a
13 contract, the Agency's do it or die presentation of the draft contract to NCA in a public meeting
14 is it. But, the Agency did not stop there. For reasons unknown to NCA, the Director issued the
15 recommendation to the Authority in that meeting **that it be a condition of approval that such**
16 **contract should include a waiver of NCA's rights to judicial review.**

17 NCA objected to such a condition as it was ultra vires, unconstitutional, and in violation
18 of law. It also objected to the strong arm tactics of the Agency presenting a draft 30-page
19 contract to NCA for review just immediately prior to the Director's recommendation that the
20 Authority vote to require NCA enter into the contract. NCA also objected to the Authority *sua*
21 *sponte* and without any notice, public or otherwise, forcing conversion of NCA from a charter,
22 which it was granted by the State after successfully completing the charter application process in
23 2007 and renewal proceedings in 2013, to a contract, yet another striking example of the
24 Agency's arbitrary and capricious handling of this matter.

25 One Authority Board Member suggested that NCA had requested a "charter amendment"
26 which would give the Authority the legal right to require NCA to convert from a charter, under
27 which it currently operates, to a contract. **Ex. 22**, Excerpts of Transcript of July 2016 Meeting.
28 NCA has not requested such an amendment to its Charter and no agenda for the Authority since

1 February 2016 has included any public notice the Authority would consider such a request which
2 requires statutory proceedings under NRS 388A and 233B. Yet, apparently based on this
3 misconception that NCA had requested a charter amendment, the Agency voted to accept Staff's
4 recommendation to condition approval of the benchmarks upon NCA entering into a contract of
5 "mutually agreeable terms" with the Authority to convert from a charter to a contract.⁶

6 The Authority unlawfully mandated that the school convert from its charter to a contract
7 on July 29, 2016 and then, on August 26, 2016, insisted that the entirely rewritten charter to
8 govern the school's operations, not just the benchmarks, be completed just three weeks later by
9 September 19, 2016, over NCA's objection that other schools had been given months and
10 sometimes more than a year to negotiate such contracts when they converted from their charters.

11 The August 26, 2016 agenda did not include any request for amendment of NCA's
12 charter or action to require such an amendment. The Authority Board Chair stated they would
13 just be receiving an update and, therefore, denied NCA's request to be heard on the agenda item.

14 When NCA requested accountability measures other than waiving its rights to access the
15 courts be considered, including the Authority exercising its statutory right to consider closure,
16 appointment of a receiver or reconstitution of the NCA board but with judicial review of such a
17 decision, the Authority rejected that proposal and issued the Notice of Closure – so much for
18 entering a contract "of mutually agreeable terms". To date, the avenue NCA has been given by
19 the Authority and its Staff to curing the alleged deficiency giving rise to the notice of closure is
20 acquiescence to the Authority's demand that NCA agree to this waiver of judicial rights.

21 **E. The Authority Violated Its Own State Performance Framework**

22 The Authority has adopted a State Performance Framework for its oversight of charter
23 schools, a copy of which is attached as **Exhibit 23**. The Authority adopted the Charter School
24 Performance Framework ("Performance Framework") "[t]o provide charter school boards and
25 leaders with clear expectations, fact-based oversight, and timely feedback while ensuring charter
26 autonomy." The Performance Framework includes the Authority's adopted intervention ladder

27 _____
28 ⁶ The unlawfulness of this Agency action is the subject of Case No. 16 OC 00194 1B pending before this Court which NCA intends to seek consolidation of with the instant case.

1 and identifies as one of the Authority's obligations to "conduct a transparent, consistent and
2 predictable oversight process" **with emphasis on "student outcomes rather than compliance**
3 **and process."** (emphasis added). The Performance Framework promises charter schools and
4 parents and students "comprehensive information for data-driven and merit-based charter
5 renewal and contract revocation/termination." *Id.* at 3 § 2. Revocation proceedings based on a
6 school's unwillingness to waive constitutional rights are inconsistent with and violate
7 Authority's own adopted policy and the promise to all Nevada families it contains.

8 The Performance Framework provides that every charter school will receive an annual
9 review to analyze a school's academic, financial, organizational, and mission specific
10 performance. *Id.* at 5 § 4. These annual reviews are to include compilation of any "Notice of
11 Concern or Breach and Intervention Ladder Findings." *Id.* The Authority adopted an
12 "Intervention Ladder" in the Performance Framework that provides three levels of intervention:
13 Level 1 which provides a school a "Notice of Concern" containing specific actions and due dates
14 required to remedy the concern; Level 2 which provides for issuance of a "Notice of Breach" to a
15 school for failure to comply with a material term or condition of the school's charter and
16 Authority monitoring of the school's implementation of steps required to cure the breach; and
17 Level 3 which provides for issuance of a Notice of Intent to Revoke a charter if the school fails
18 to meet specified requirements in the Notice of Breach. The Performance Framework provides
19 that "[f]indings from the Intent to Revoke will determine whether a school enters into
20 revocation/termination proceedings or is granted a revised Notice of Breach, returning to Level
21 2." *Id.* at 6 § 5.

22 NCA never received a notice of concern or a notice of breach. The Agency denied NCA
23 the right to speak during the Agency hearing on September 23rd when it issued the Notice of
24 Closure. NCA is unaware of any "findings" of the Authority to support that NCA should enter
25 into revocation proceedings. Ex. 13, Werlein Declaration. To the contrary, during the March
26 2016 hearing, when the Authority did receive and consider evidence and give NCA and its
27 affected families an opportunity to be heard, the Authority declined to issue such a notice and
28 instead directed the school to prepare and implement a graduation rate improvement plan. The

1 Authority's actions in September contradict the Authority's March finding and directed action
2 with no change in circumstances to justify such sudden change of course, the very definition of
3 arbitrary and capricious decision making.

4 The Authority adopted an annual timeline for the Performance Framework
5 implementation with the stated goal of setting "clear expectations for the Authority interaction
6 with schools." That annual timeline requires the Authority create "school annual reviews that
7 combine performance scores, site visit data, and school submission performance" and share
8 those annual reviews with school leaders, school boards and the public. *Id.* at 8 § 7. The
9 Authority has never done a site visit at NCA and, therefore, has never compiled or provided site
10 visit data as required by the Performance Framework. The Authority Staff has never engaged in
11 a meaningful dialogue with the school prior to placing NCA on the February 2016 agenda for a
12 notice of closure. The only time meaningful discussion did occur was after the March 2016
13 hearing when the Authority failed to garner enough votes to issue a notice of closure and instead
14 was directed to work with NCA to develop an improvement plan. Discussions with Authority
15 staff occurring after NCA's improvement plan was approved certainly cannot be considered
16 meaningful, as those discussions have been focused on the Authority's efforts to "strong arm"
17 NCA into negotiating a contract it has no present legal obligation to enter into and to use that
18 contract as an instrument to deny NCA its right to judicial review of the Authority's possible
19 future actions taken against the school. Ex. 13, Werlein Declaration.

20 The Performance Framework requires that for "high-stakes decisions" the Authority
21 "consider the collective record of a school's academic, financial, organizational and mission
22 specific performance." Considering issuance of a Notice of Closure cannot be considered
23 anything other than "high stakes" yet the Authority refused to consider any such evidence or
24 even allow NCA to speak during the agenda item on September 23, 2016, when it voted to issue
25 a Notice of Intent to Revoke the school's charter. In doing so, the Authority violated its own
26 Performance Framework by basing the decision solely on the school's unwillingness to waive its
27 rights to judicial review of future Authority decisions and, as for academic performance,
28 discussed only the school's four-year cohort graduation rate and nothing else.

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III. ARGUMENT

A preliminary injunction preserves the status quo to protect the moving party from irreparable injury pending final judgment. *Ottenheimer v. Real Estate Div.*, 91 Nev. 338, 342, 535 P.2d 1284, 1285 (1975). Plaintiffs are entitled to a preliminary injunction as they have demonstrated a “likelihood of success on the merits and that the nonmoving party’s conduct, should it continue, would cause irreparable harm for which there is no adequate remedy at law.” *Dept. of Conservation and Natural Resources, Div. of Water Resources v. Foley*, 121 Nev. 77, 80, 109 P.3d 760, 762 (2005); *see also* NRS 33.010. The court also should consider the public interest and the potential hardships to the parties and others both of which also weigh heavily in favor of Plaintiffs’ requested relief. *University System v. Nevadans for Sound Government*, 120 Nev. 712, 721, 100 P.3d 179, 187 (2004).

A. Plaintiffs are Likely to Prevail on the Merits

Plaintiffs’ claims against the Agency for declaratory judgment and a permanent injunction (or in the alternative, writ of mandate or prohibition) are the basis for the preliminary injunction. Based on the facts presented, Plaintiffs are likely to succeed on the merits of those claims. This Court has jurisdiction to issue a writ of mandate pursuant to NRS 34.150 *et seq.* or, in the alternative, a writ of prohibition pursuant to NRS 34.320 to command the Agency to refrain from further proceedings to close NCA or reconstitute its school governing board (“school board”) under the Notice of Closure issued on September 30, 2016. The Notice of Closure issued solely because NCA was unwilling to waive its right to have a court review future Authority decisions that could, without so much as an agency hearing, put the entire K-12 school into receivership based solely on a single data point (the four-year cohort graduation rate for the high school), regardless of substantial evidence supporting the school’s academic achievements measured by reliable metrics including student growth and credit accumulation. As demonstrated by the information included in the March 2016 SPSCA hearing transcript and as recognized by education experts, the four-year cohort graduation rate does not accurately reflect

1 NCA's high school's performance. **Ex. 24**, Excerpts of Transcript of NCA Hearing, March
2 2016; **Ex. 25**, Declaration of R. Vineyard. The Authority issued this Notice of Closure just four
3 months after the Authority praised a graduation rate improvement plan NCA prepared at the
4 Authority's direction to address concerns raised about the four-year cohort graduation rate for
5 NCA's high school. By issuing the notice, the Authority then reached beyond the high school
6 grades and voted to shut down the entire K-12 school with no legal basis to do so.

7 The Authority and its Director have failed, and continue to fail, to perform their legal
8 duty to (a) act within their statutorily defined authority; (b) make determinations consistent with
9 applicable law; and (c) render a decision based on substantial evidence rather than subjective
10 opinions and erroneous conclusions. This Court has jurisdiction for purposes of declaratory and
11 injunctive relief pursuant to NRS 233B.130, NRS 33.010, NRCPC 65, NRS 30.030 and NRS
12 30.040. Although the Authority has not issued a final determination on the merits of the closure,
13 Plaintiffs are aggrieved by the Authority's decision to issue the Notice of Closure and review of
14 the final decision of the agency will not provide an adequate remedy because the Authority has
15 threatened to immediately remove the NCA Governing Board members (based on their
16 unwillingness to waive their rights to judicial review). Upon information and belief, the
17 Authority and/or the Director would assert immediate control over the school if, on December
18 16, 2016, the Authority votes to close the school or reconstitute the NCA board, giving the
19 Authority the ability to simply stack the Board with new members who the Authority believes
20 will waive NCA's constitutional rights to judicial review. Given the school board members'
21 knowledge, expertise, experience and demonstrated commitment to NCA and its students,
22 removal and replacement of those members with all new members would disrupt the school and
23 potentially require appointment of a receiver and jeopardize its ongoing operations. Indeed, the
24 NCA board includes highly qualified and dedicated board members with the expertise and
25 experience that Director Gavin himself identified as the kind of board to look for to successfully
26 operate a charter school. **Ex. 15**, Dec. of J. Sanchez. Yet now, in order to achieve its objective
27 of forcing the school into a contract that waives the schools right to judicial review, or its
28 political objective of closing online charter schools, the Agency seeks to close the school or

1 reconstitute the board for the very reason that the present board will not waive the school's rights
2 to judicial review. Such action would clearly result in irreparable harm to the school for which
3 there is no adequate remedy at law to cure.

4 *1. The Agency's Decision is Facially Invalid and Unlawful*

5 NCA serves students in grades K-12 and has one charter currently in effect for its
6 operations of those grades. Currently the school serves more than 3,200 students throughout the
7 State of Nevada. The Agency's Notice of Closure of the entire K-12 school is based on the
8 school's refusal to waive its rights to judicial review. Ex. 13, Werlein Declaration; **Ex. 26**,
9 Transcript of September 2016 Agency Hearing. Underlying that stated unambiguous reason for
10 issuing the notice of closure, the Agency asserts it is based upon the high school's graduation
11 rate for the previous year being below 60%. Even assuming, for the sake of argument, the
12 Agency issued the Notice of Closure based on the high school's four-year cohort graduation rate
13 rather than simply to retaliate against the school for standing firm in its refusal to waive its rights
14 to judicial review, the Agency has no legal authority to conduct closure proceedings against the
15 entire K-12 school based on a single identified issue that is limited in scope to the high school
16 grades. This is a fatal flaw in the Agency's decision and justifies enjoining the Agency's further
17 action on the Notice of Closure.⁷ The Authority issued the Notice of Closure for NCA's entire
18 school serving more than 3,200 students in grades K-12 based on NRS 388A.330 which says the
19 Authority **may** consider closure of a charter high school if its graduation rate in the prior year
20

21 ⁷ In addition, the current four-year cohort calculation of the graduation rate the Authority continues to cite
22 is inconsistent with Nevada law. NRS 385.3485 pertains to the "graduation and drop-out rate of pupils"
23 and requires that the "annual rate of pupils who drop out of school in grades 9 to 12, inclusive, for each
24 such grade, for each school in the district and for the district as a whole" must be reported by the SPCSA.
25 "The reporting for pupils in grades 9 to 12, inclusive, **excludes** pupils who: (a) Provide proof to the
26 school district of successful completion of the high school equivalency assessment selected by the State
27 Board pursuant to NRS 385.448; (b) are enrolled in courses that are approved by the Department as
28 meeting the requirements for an adult standard diploma; and (c) withdraw from school to attend another
school". NAC 389.699(3) states, "A pupil who qualifies for a certificate of attendance must not be
counted as a dropout". A certificate of attendance is issued to a student who is over 17 and has completed
the required credits to graduate, but has not passed the required proficiency exams. Upon information and
belief, a review of the four-year cohort graduation rate as calculated by the Authority for NCA in 2015
may reflect these students were incorrectly categorized as dropouts. NCA estimates that if the students
who enrolled for a 5th year, go into Adult Ed, or entered a GED program are removed from the cohort,
then the graduation rate for NCA would be 63.3% for 2015.

1 was below 60%. The Authority acted arbitrarily and in excess of its statutory authority
2 proceeding to issue a notice of revocation for the entire school when the elementary and middle
3 schools have no performance concerns whatsoever identified by the Authority. There is no legal
4 basis, statutory or otherwise, for the Authority to close the entire K-12 school. N.R.S. 388A.330
5 (setting forth potential triggers for discretionary closure which are distinct for high schools and
6 elementary and middle schools). Plaintiffs are entitled to a declaratory order that the Authority's
7 act is unlawful in issuing the Notice of Closure for an entire K-12 school based solely on a four-
8 year cohort graduation rate for its high school. Injunctive or writ relief is necessary to halt the
9 Agency's unlawful proceedings and mandate the Agency follow Nevada law and its own State
10 Performance Framework.

11 **2. The Agency's Acts are Unconstitutional – in Violation of Separation of Powers**

12 Separation of powers is expressed in Articles 4, 5 and 6 of the Nevada Constitution. The
13 powers of the executive branch are outlined in Article 5 of the Nevada Constitution. Under
14 Article 5, Section 7 of the Nevada Constitution the Authority is an executive branch agency
15 charged with carrying out and enforcing the laws enacted by the Legislature. The powers of the
16 judicial branch are set forth in Article 6 of the Nevada Constitution. The Executive branch
17 cannot interfere with a constitutional structural protection such as access to the courts or coerce a
18 school or anyone else to waive such constitutional protection by eliminating the school's right to
19 be heard by the Courts which provide oversight to determine whether the agency has acted
20 unlawfully or in excess of its jurisdiction or statutory authority. Nevada's Constitution expressly
21 prohibits any one branch of government impinging on the functions of another. *Hardy*, 125 Nev.
22 at 292, 212 P.3d at 1103-1104. "The separation of powers doctrine is the most important
23 foundation for preserving and protecting liberty by preventing the accumulation of power in any
24 one branch of government." *Berkson v. LePome*, 245 P.3d 560, 564, 126 Nev. 492, 498 (Nev.
25 2010) (citing *Secretary of State v. Nevada State Legislature*, 120 Nev. 456, 466, 93 P.3d 746,
26 753 (2004)). Structural principles secured by the separation of powers protect the freedom of the
27 individual. *Dept. of Transp. v. Assoc. of American Railroads*, 135 S.Ct. 1225 (2015). It is this
28 fundamental constitutional freedom the Authority demands the school waive or, the Authority

1 will move forward with closure.

2 The Authority's vote on September 23, 2016 made clear that the waiver of judicial
3 review was a required term of the proposed contract to be negotiated with NCA and staff and
4 certain Authority board members have advised the school that the way to "cure" the alleged
5 deficiency and avoid closure proceedings is to consummate a contract with the Authority that
6 must include this waiver. On October 6, 2016, the school inquired as to how the Authority
7 believed NCA could "cure" the alleged deficiency. To date, the Director has not provided such
8 information about how to "cure" other than for the school to waive its constitutional rights.
9 Plaintiffs are entitled to a declaratory order that the Authority's act is unconstitutional and
10 unlawful in forcing NCA to choose between waiving its right to judicial review or closure of or
11 interference with school operations.

12 **3. The Agency's decision was Arbitrary & Capricious and Unlawful**

13 The proper mechanism for seeking judicial review of an agency decision is by filing a
14 petition for judicial review. *Kay v. Nunez*, 122 Nev. 1100, 1103 (2006); *see also* NRS 233B.130.
15 As a party identified of record by the Agency's decision and aggrieved by the Agency's decision,
16 NCA is entitled to judicial review of the decision. N.R.S. 233B.130. Plaintiffs rights have been
17 prejudice by the unlawfulness and errors of the Agency's decisions at issue. The Agency's vote
18 in July mandating that NCA convert its charter to a contract was final on that matter and timely
19 appealed by NCA. The Agency's vote in September to issue the Notice of Closure to NCA is
20 reviewable because review of the Agency's final decision on closure would not provide an
21 adequate remedy. *Id.* 233B.130(1). If the Authority votes to close the school the harm will be
22 immediate; at that point any relief the school receives will be too late to be meaningful relief – in
23 fact, the irreparable harm is in progress now as the K-12 school of choice for more than 3,200
24 students has been put in jeopardy creating uncertainty for school students, families and staff.

25 Here the Authority had no legal basis to mandate NCA convert its charter to a contract –
26 the decision that set this latest unlawful act in motion by insisting NCA negotiate an entirely new
27 contract to govern its operations of grades K-12. Similarly, the Authority's decision on
28 September 23, 2016 to issue the Notice of Closure does not comport with the Authority's own

1 procedures and its Performance Framework, and was in violation of law. Under NRS
2 233B.130(1)(b) the Authority's decision to issue the Notice of Closure is immediately
3 reviewable by this Court because review of the Authority's final decision on closure will not
4 provide an adequate remedy – the damage will be done given the pending uncertainty of the
5 school, its board, its staff, parents and above all its students.

6 The Authority's attempt to compel conversion of NCA's charter to a contract and
7 decision to issue the Notice of Closure to NCA was unlawful, exceeded the Authority's
8 jurisdiction and cannot withstand judicial review. The Authority's decisions at issue here were
9 arbitrary, capricious, characterized by an abuse of discretion, in violation of constitutional and
10 statutory provisions, in excess of statutory authority, made upon unlawful procedure, and clearly
11 erroneous in view of the reliable, probative and substantial evidence on the whole record.
12 Accordingly, given the Plaintiffs' rights are substantially prejudiced by the Authority's
13 decisions, reversal of those decisions is appropriate under NRS 233B.135.

14 The district court's "function" when presented with such a petition is "to determine,
15 based on the administrative record, whether substantial evidence supports the administrative
16 decision." *Kay*, 122 Nev. at 1105. Substantial evidence is "that which a reasonable mind might
17 accept as adequate to support a conclusion." *State Dep't of Employment, Training & Rehab.,*
18 *Employment Sec. Div. v. Reliable Health Care Servs. of S. Nevada, Inc.*, 115 Nev. 253, 257 n.1
19 (1999) (internal quotation omitted). Agency Board members' opinions alone do not constitute
20 substantial evidence. *City Council of City of Reno v. Travelers Hotel, Ltd.*, 100 Nev. 436, 439
21 (1984) ("the 'substantial evidence' requirement . . . is not met by . opinions. . of council
22 members, unsupported by proof.").

23 Here, there is no evidence to support the Agency's vote to force NCA to convert its
24 charter to a contract or to mandate NCA enter into a contract that waives its rights to judicial
25 review or face closure. NCA put on evidence in March 2016 that persuaded the SPSCA Board
26 that issuance of a notice of closure was not appropriate and, instead, a plan for improvement
27 should be prepared and implemented. *See Ex. 24, Excerpts of March 2016 SPSCA Meeting.*
28 That is what occurred and, as the SPSCA Board members acknowledged, the school must be

1 given an opportunity to implement that plan and then the SPSCA can review the results.

2 As discussed above, the SPSCA vote to issue a Notice of Closure simply because NCA
3 would not agree to waive its rights to judicial review is in violation of constitutional and
4 statutory provisions, in excess of the statutory authority of the agency, clearly erroneous in view
5 of the reliable, probative and substantial evidence on the whole record and arbitrary capricious
6 and characterized by an abuse of discretion. The Agency has not treated all online schools the
7 same – having allowed another school, Nevada Virtual Academy, to get away with selective
8 enrollment by simply declining to accept 12th grad students because it was resulting in the school
9 having a lower graduation rate. *See* Transcript from SPSCA Meeting & Emails, Exs. 26 and 27.
10 The Agency took no action against the school for selectively enrolling students even though it is
11 unlawful and Director Gavin initially and for several months took the position that NVA's
12 graduation rate that had increased to meet the statutory minimum of 60% could not be
13 considered given this concern. Although NVA was, for many months, on the Authority's agenda
14 for a Notice of Breach and even possible closure, the SPSCA has taken no adverse action against
15 NVA as it has against NCA.

16 Moreover, while NVA and other schools apparently got the benefit of first receiving a
17 Notice of Concern or Notice of Breach as the State Performance Framework requires, NCA did
18 not. The Agency's decision is in violation of and ignores the State Performance Framework and
19 with no communication, notice or effort to work with NCA escalated NCA to immediate closure
20 in March 2016.

21 Just as the Agency is treating NVA by a different set of rules than NCA, the agency also
22 applied a different procedural process for another online school that was on the same agenda in
23 September and also issued a notice of closure. While the Authority refused to allow any
24 representative from NCA an opportunity to make comment to the Board during the agenda item
25 involving NCA, an SPSCA board member stated during the same proceedings for Beacon
26 Academy that he had never seen an affected party not being allowed to speak during an agenda
27 item. As a result, Beacon Academy was given the opportunity to provide information and
28 evidence to the Board before it voted on the same type of motion for Beacon Academy as it had

1 for NCA but with no opportunity for participation by NCA. *See* Ex. 26, September 2016 Agency
2 hearing. In addition, Mr. Gavin gave erroneous information to the SPSCA Board regarding
3 NCA during its agenda item, stating that the Agency had previously experienced financial
4 concerns with the NCA board – something that is absolutely false and that Mr. Gaven himself
5 corrected, but not until during the hearing on Beacon Academy, after the SPSCA voted on
6 NCA’s item to issue the Notice of Closure. No new hearing or vote was taken once Mr. Gaven
7 disclosed to the SPSCA Board his misstatement during the public portion of the NCA item.⁸

8 **4. *The Agency Violated the Open Meeting Law and its Action is Void***

9 Following the Agency’s review and praise of the NCA Graduation Rate Improvement
10 Plan in May 2016, at the SPSCA Board’s direction, NCA worked with Mr. Gavin on proposed
11 “benchmarks” for increasing the four-year cohort graduation rate as NCA implemented the Plan.
12 Those benchmarks were presented to the SPSCA Board at the July 2016 meeting. As discussed
13 above, at that meeting, the SPSCA Board voted to force NCA into converting its charter to a
14 contract and then approve the proposed benchmarks conditioned upon execution of a contract of
15 “mutually agreeable terms” between NCA and the Agency. *See* Ex. 22, Excerpts of Transcript of
16 July 2016 Authority Meeting. When NCA’s counsel questioned the legal authority to force NCA
17 to convert its charter to a contract SPSCA Board Member Conaboy asserted that NCA had
18 requested an amendment of its charter which allowed the Authority to require the school to
19 convert its charter to a contract with the Agency. *Id.* NCA never requested an amendment of its
20 charter, however, and no such amendment was on the July agenda for the SPSCA meeting.
21 Accordingly, the SPSCA violated the Open Meeting Law by considering an “amendment” to
22

23 ⁸ Other significant questions arise with the four-year cohort graduation rate the Authority continues to
24 recite as the calculation is not transparent to the public or the schools and this year the process has been
25 changed in a manner detrimental to NCA. Previously, the Authority would provide a preliminary number
26 and identify names of “missing” students for schools in or around July so that schools such as NCA could
27 attempt to locate those students in which case they would not be considered “drop outs” if they had
28 reenrolled in another school. This year, no such preliminary number has been provided as of October 13,
2016 which means NCA will have a significantly shorter period to locate students which could
significantly affect its four-year cohort graduation rate. No explanation has been given for the delay and
no proposed remedy has been forthcoming from the Agency with respect to how it intends to remedy the
unfair negative impact NCA will have with respect to meeting the milestones set forth in in the graduation
rate improvement plan. Particularly given how the Authority is attempting to use these numbers it is
essential that the process be transparent and fair. Ex. 13, Werlein Dec.

1 NCA's charter without any proper public notice and, moreover, which NCA never requested.

2 The Nevada Open Meeting Law requires that all meetings of a public body such as the
3 SPSCA be open and public and "written notice of all meetings," including an agenda listing all
4 items on which action may be taken, "must be given at least 3 working days before the meeting."
5 N.R.S. 241.020(1)-(2). Action of any public body, such as the SPSCA, "taken in violation of
6 any provision" of the Nevada Open Meeting Law "is void." N.R.S. 241.036. Under Nevada
7 law, the SPSCA had no authority to require NCA to convert its charter to a contract unless NCA
8 sought an amendment of its charter (which it did not). Member Conaboy's statement that NCA
9 did seek an amendment to its charter and that was the legal basis upon which the contract was
10 being required, such action on a purported requested amendment of the charter was taken with no
11 proper notice under the Nevada Open Meeting Law and, therefore, is void.

12 Plaintiffs are entitled to a declaratory judgment that the SPSCA's decision in July 2016 to
13 force NCA into a contract was void. NRS 30.030 provides that courts "shall have power to
14 declare rights, status and other legal relations whether or not further relief is or could be
15 claimed." Declaratory relief is available only if: (1) justiciable controversy exists between
16 persons with adverse interest; (2) the party seeking declaratory relief has a legally protectable
17 interest in the controversy; and (3) the issue is ripe for judicial determination. *County of Clark,*
18 *ex rel. University Medical Center v. Upchurch*, 114 Nev. 749, 756, 961 P.2d 754 (1998) (*citing*
19 *Knittle v. Progressive Casualty Ins. Co.*, 112 Nev. 8, 10, 908 P.2d 724, 725 (1996)). The courts
20 must also consider whether speedy resolution of the issue might promote economy in the
21 litigation process or might lead to meaningful pretrial settlement. *Id.* (*citing El Capitan Club v.*
22 *Fireman's Fund Ins.*, 89 Nev. 65, 68, 506 P.2d 426, 429 (1973)). The Court has found that
23 declaratory relief is proper where procedures entitled under the statute were not afforded. *See*
24 *Clark Cty. Sch. Dist. v. Riley*, 116 Nev. 1143, 1146 (2000) (The Court affirmed the lower court
25 granting of summary judgment for a declaratory relief claim which was appropriate where a
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1 teacher was not afforded the procedures to which he was entitled by statute which made the
2 school district's attempt to terminate the teacher invalid).

3 Here, all the elements of declaratory relief are met. The SPSCA did not follow the
4 statutory requirement to post an agenda of its consideration of an amendment to NCA's charter
5 and had no legal authority to force NCA to convert its charter to a contract because it never
6 requested an amendment in the first place. Thus, a justiciable controversy exists as NCA claims
7 that the SPSCA's July decision to force NCA to convert its charter to a contract was invalid,
8 which the SPSCA disputes. Second, Plaintiffs have a legally protectable interest in the
9 controversy because the SPSCA's attempted action compromises NCA's ongoing operations.
10 Third, the issue is ripe for adjudication as plaintiffs and defendants are contesting whether the
11 Agency violated the Open Meeting Law and whether the Agency's actions are therefore void.
12 Lastly, the determination by this Court that the Agency's July decision was in violation of the
13 Open Meeting Law and, therefore, void will promote "efficiency in the litigation process or
14 might lead to a meaningful pre-trial settlement" because it was this decision that positioned the
15 Agency to then mandate certain terms in that same contract with NCA – including that NCA
16 waive certain rights to judicial review – and then issue a Notice of Closure when NCA did not
17 acquiesce to the Agency's demands. Therefore, under NRS 30.010 through NRS 30.160 the
18 Court has the authority to enter a declaratory judgment regarding the above.

19 **5. *The Agency is Equitably Estopped from Proceeding with Closure in December***

20 As discussed above, based on the Agency's direction NCA prepared a Graduation Rate
21 Improvement Plan and then based on the Authority's praise of that plan, NCA immediately
22 began implementation, spending significant financial and other resources to do so. The
23 Authority then sought to materially modify its acceptance of the Plan and decision to allow NCA
24 time to implement that plan, without NCA's knowledge. It then later entirely disregarded the
25 Plan with no consideration of NCA's investment and implementation work or disruption to the
26 school and students, through the Agency's unlawful mandate and the issuance of notice of
27 closure. Nevada courts have long since recognized that equitable estoppel may be invoked
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1 against an agency of the state. *See e.g., State v. Sponburgh*, 66 Wash.2d 135, 401 P.2d 635
2 (1965); *United States v. Lazy FC Ranch*, 481 F.2d 985 (9th Cir.1973); *Nevada Public Employees*
3 *Retirement Board v. Byrne*, 96 Nev. 276, 607 P.2d 1351 (1980).

4 Equitable estoppel consists of four (4) elements: (1) the party to be estopped must be
5 apprised of the true facts; (2) he must intend that his conduct shall be acted upon, or must so act
6 that the party asserting estoppel has the right to believe it was so intended; (3) the party asserting
7 the estoppel must be ignorant of the true state of facts; (4) he must have relied to his detriment on
8 the conduct of the party to be estopped. *Chequer, Inc. v. Painters & Decorators*, 98 Nev. 609,
9 655 P.2d 996 (1982). For approximately four months the representations of the Authority by
10 and through its Board and Staff caused NCA to expend considerable time, effort and resources to
11 prepare a graduation improvement plan and establish benchmarks to measure the success and
12 improvement resulting from such plan. NCA and the Agency Staff worked collaboratively to
13 prepare the plan and establish the benchmarks. At no time during this collaboration did the
14 Authority its Board or Staff inform NCA that approval of the bench marks would be contingent
15 upon NCA converting its charter to a contract nor that this contract would require the waiver of
16 its constitutional right of judicial review.

17 At the Authority's July 2016 meeting the Board unlawfully mandated that NCA convert
18 from a charter, under which it currently operates, to a contract. NCA was not allowed to speak at
19 this meeting nor did NCA request, at any time, an amendment of NCA's charter or action to
20 require such an amendment. After the July 2016 meeting, the Staff continued to insist that NCA
21 waive its statutory and constitutional right of judicial review or face closure. On September 23,
22 2016, in retaliation for NCA rejecting the term waiving its right to judicial review, the Authority
23 issued a Notice of Closure for NCA. The Notice was purportedly issued based on NCA's four-
24 year cohort graduation rate for 2015; however, that already had been considered by the Authority
25 in March 2016 when the Agency voted that instead of issuing a notice of closure it would direct
26 NCA to prepare a graduation rate improvement plan, which it did.

27 NCA detrimentally changed its position by preparing a graduation improvement plan and
28 establishing benchmarks. Working collaboratively with NCA it was the Authority's intent that

1 NCA embark upon this time consuming and expensive process. Only the Authority was aware
2 that approval of the graduation improvement plan and benchmarks was contingent upon NCA
3 converting its charter to a contract and waiving its statutory and constitutional right of judicial
4 review within such contract. Because NCA was unwilling to voluntarily waive such rights the
5 Authority issued a notice of closure. Nevada courts have recognized that “the conduct of
6 government should always be scrupulously just in dealing with its citizens; and where a public
7 official, acting within his authority and with knowledge of the pertinent facts, has made a
8 commitment and the party to whom it was made has acted to his detriment in reliance on that
9 commitment, the official should not be permitted to revoke that commitment.” *S. Nevada Mem'l*
10 *Hosp. v. State, Dep't of Human Res.*, 705 P.2d 139, 141–42 (Nev. 1985).

11 The Authority must now be estopped from denying NAC the ability to implement its
12 graduation improvement plan to meet certain graduation benchmarks without the threat of
13 closure, converting their charter to contact, or entering into a contract requiring the waiver of
14 statutory and constitutional rights.

15 **4. *The Agency's Forced Waiver of Judicial Review Breaches the Covenant of***
16 ***Good Faith and Fair Dealing and is Void Ab Initio***

17 NCA's existing charter granted by the State in 2007 and renewed in 2013 is a valid,
18 enforceable contract between NCA and the State Public Charter School Authority, and contains
19 the implied covenant of good faith and fair dealing. NCA has performed its obligations under the
20 charter. Despite NCA's full performance under the charter, Defendants wrongfully and
21 improperly insisted that in order to continue operating under its existing charter and serving over
22 3,000 students in grades K-12, that NCA must enter into an entirely new charter contract that
23 includes a waiver of all rights to judicial review for certain future Agency actions. Defendants
24 have engaged in conduct in bad faith and with improper and ill motives for the purpose of
25 depriving NCA of its rights and benefits under its existing charter and Nevada law, and hindering
26 NCA's continued performance thereunder.

27 The Agency's proposed terms for NCA to waive its rights to judicial review or face
28 closure also suffer from substantive unconscionability given the "one-sidedness of the contract

1 terms." *D.R. Horton*, 120 Nev. at 554, 96 P.3d at 1162-63. This term, as explained above, can
2 only be seen as "oppressive" and, therefore, would be rendered void *ab initio* and should not
3 stand as a basis to close NCA simply because the school would not agree to it. *See Gonski v.*
4 *Second Judicial Dist. Court*, 126 Nev. at ___, 245 P.3d 1164, 1169-70 (internal quotations
5 omitted) (2010).

6 **B. Plaintiffs Will Suffer Irreparable Harm Absent Injunctive Relief**

7 Plaintiffs satisfy the requirements for obtaining a preliminary injunction based on their
8 demonstration above of likelihood of success on the merits and also because they can
9 demonstrate they will suffer irreparable harm if an injunction is not issued. *Foley*, 121 Nev. at
10 80. There is no question that NCA and its students and families will be irreparably injured
11 without the protection of a preliminary injunction. Thousands of students in Nevada are being
12 put in jeopardy by the Agency's unlawful and arbitrary acts to interfere with NCA's operations
13 and every one of these students along with the school is suffering unquantifiable harm by being
14 subjected to arbitrary threats of closure. Interfering with a student's school choice and ongoing
15 education at a school where they are finally succeeding after struggling through years of failures
16 with other schools would set students back and they might never recover but instead may
17 dropout causing harm to themselves and our entire statewide community. For NCA, continuing
18 to be subjected to ongoing closure proceedings puts the school at risk by leaving uncertainty for
19 staff and students. Upon information and belief, given the blatant unlawfulness of the Agency's
20 conduct it appears the Authority may be intentionally attempting to harm the school through
21 endless proceedings of threatened closure even after the school prevailed over Staff's
22 recommendation to issue a notice of closure in March 2016.

23 **C. Granting the Preliminary Injunction Furthers the Public Interest**

24 Courts may also consider the public interest when deciding whether to issue a
25 preliminary injunction. *University System*, 120 Nev. at 721. Here, the public has considerable
26 interest in the requested injunctive relief – to allow continued access to this innovative and
27 effective school choice for thousands of Nevada students. As Nevada Senator Becky Harris
28 recognized during an April 3, 2015 Senate Education Committee hearing "reaching out to and

1 embracing these kids is critical. It is tough; it is often unsuccessful, but it sometimes works.
2 Moreover, when it does work lives are changed.” Senator Harris went on to acknowledge the
3 success in graduating these students – “even if it takes an extra year or two, should we close that
4 school, or should we celebrate its good work.” Ex. 16. Director Gavin himself assured Nevada
5 legislators in advocating for them to allow the Authority to consider closing a charter high
6 school based on this single data point that all of the evidence and data necessary to truly evaluate
7 and understand the four-year cohort graduation rate would be considered by the Authority to
8 ensure thoughtful decisions on school closure. Director Gavin’s assurance was important to
9 legislators who expressed concerns that schools not be penalized for serving Nevada’s most at-
10 risk youth who come to them credit deficient. The Agency’s and Director’s recent actions
11 described herein relative to NCA violate his assurances to Nevada’s legislators and the public.

12 Moreover, it is in the public interest to preclude one branch of government, here the
13 Agency, from encroaching on another branch, the judiciary by strong arming a school into
14 waiving its constitutional and statutory rights to judicial review of future agency decisions. One
15 must question why an agency would want to evade such legal review – and wonder if it is for the
16 very reason the Nevada Constitution prohibits such action – so that the Agency can act however
17 it wants, whether lawful or not, and avoid having any accountability to the Courts, the school or
18 the public. This is of particular concern in a case such as this where the Agency is so clearly
19 applying different standards to different online schools – allowing at least one to selectively
20 enroll students in order to increase its graduation rate and then avoid the threat of closure. This
21 is also critical where, as here, the Agency is ignoring the law (NRS 388A.330), violating its own
22 policy (the State Performance Framework), and admittedly acting based on a political agenda to
23 close online schools rather than based on the compelling and substantial evidence as the law
24 requires. Indeed, given that the Agency refused to allow NCA to be heard at the September 2016
25 meeting, there is no evidence at all to support its decision which renders it invalid.

26 **D. Balance of Hardships Favors Granting Plaintiffs’ Preliminary Injunction**

27 A preliminary injunction will issue where, as here, the injury to the moving party will be
28 “immediate, certain, and great” if denied, and “the loss or inconvenience to the opposing party

1 will be comparatively small and insignificant if it is granted.” *Danberg Holdings Nevada, LLV*
2 *v. Douglas County*, 115 Nev. 129, 146, 978 P.2d 311, 321 (1999) (citation omitted). Plaintiffs
3 are simply asking the Court to order Defendants to do what they are already legally bound to do
4 – allow NCA to continue implementation of the agreed upon Graduation Rate Improvement Plan
5 and exercise its continuing oversight under the State Performance Framework and applicable
6 Nevada law. Under the circumstances, the balance of hardships clearly weighs in favor of
7 granting Plaintiffs’ requested relief. The Authority does not lose any of its statutory jurisdiction
8 or oversight by simply following through with its March 2016 directive and working with NCA
9 to see how implementation of the Plan proceeds or, alternatively, by going forward without
10 insisting that NCA waive its rights to judicial review. The Authority could continue with its
11 statutory jurisdiction and oversight of the school but with the oversight of the Court as the
12 Nevada Legislature provided and the Nevada Constitution mandates.

13 **E. In the Alternative, Plaintiffs Seek a Writ of Mandate and/or Prohibition**

14 If the Court does not grant Plaintiffs’ request for a preliminary injunction, Plaintiffs
15 respectfully request that the Court issue a writ of mandate to compel the SPSCA and Director
16 Gavin to halt the closure proceedings and allow NCA to continue implementing the Graduation
17 Rate Improvement Plan the Agency directed the school to prepare and to follow the Agency’s
18 State Performance Measures Framework which it has ignored.

19 Writs of Mandamus have expanded and developed into a procedure readily accepted by
20 the courts for challenging decisions of agencies and local government bodies. *See Citizens of*
21 *Cold Springs v. City of Reno*, 2005 WL 6479039 (Nev. Dist. Ct. 2005). A **Writ of Mandate**, or
22 Mandamus, may be issued by the Supreme Court, a court of appeals, or a district court to compel
23 performance of an act which the law especially enjoins as a duty resulting from an office, trust or
24 station. *See* NRS §34.160. The Writ is to be utilized when there is no plain, speedy and
25 adequate remedy in the ordinary course of law. *See* NRS §34.170. Mandamus should not be
26 utilized unless the usual, ordinary remedies fail to afford adequate relief and without it there
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1 would be a failure of justice. *See State of Nevada v. Storey County*, 22 Nev. 263, 264 (1895).

2 Under Nevada law, a writ of mandate is available when necessary to “compel the
3 admission of a party to the use and enjoyment of a right or office to which the party is entitled
4 and from which the party is unlawfully precluded by [an] inferior tribunal, corporation, board or
5 person.” N.R.S. § 160. Courts use writs of mandate to compel “the performance of a legally
6 required act or to control an arbitrary or capricious exercise of discretion.” *Johanson v. Eighth
7 Judicial Dist. Court of State of Nev. ex rel. Cty. of Clark*, 124 Nev. 245, 248 (2008). A writ of
8 mandate “shall be issued in all cases where there is not a plain, speedy and adequate remedy in
9 the ordinary course of law.” N.R.S. § 34.170 (emphasis added). Additionally, the Court may
10 hold a hearing on a writ of mandate “at any time.” *Id.* at § 34.180. At a minimum, the Court
11 should hold a forthwith hearing on Plaintiffs’ petition for writ of mandate as allowed under
12 N.R.S. § 34.180.

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14
15 The Authority violated due process rights of NCA by refusing to allow NCA to speak
16 during the agenda item on September 23, 2016 when the Authority voted to issue the Notice of
17 Closure. Authority Member Jason Guinasso argued that the school would get its due process
18 when the actual closure hearing occurred if the school did not “cure” before then; yet the
19 Authority then went on to allow Beacon Academy to speak during the same agenda item for that
20 school – at the request of Authority Board Member Snow who stated that in his 30 years of
21 public service he had never seen an interested person be prohibited from speaking during a
22 public meeting. The Agency’s action violates Plaintiffs’ constitutional rights, is arbitrary and
23 capricious and unlawful. A writ of mandate should issue requiring the Defendants allow NCA
24 the remainder of the school year to implement its Graduation Improvement Plan before it is
25 subjected to any possible further notice of closure or other proceedings under NRS 388A.330.
26 This is consistent with the Authority’s action when it opted not to vote to issue a Notice of
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1 Closure in March and instead directed the school to prepare a Graduation Rate Improvement
2 Plan which, as the Authority itself acknowledged, will take some time to implement and evaluate
3 for effectiveness. During this time period of implementation both parties retain all rights and
4 obligations under Nevada law. The writ should mandate the Defendants follow the Performance
5 Framework with respect to any future action the Authority takes against the school and should
6 prohibit the Defendants from taking any further action against NCA during the 2016-17 school
7 year for closure, appointment of a receiver or reconstitution of the school board.
8

9 In the instant matter, the issuance of a writ of mandate is an appropriate procedure upon
10 which the Court may rely if it determines that a preliminary injunction is inappropriate.

11 **IV. CONCLUSION**

12 Defendants should be enjoined from proceeding with closure or revocation proceedings
13 (or any other action) based on their Notice of Closure and be directed to allow NCA to continue
14 implementation of its High School Graduation Rate Improvement Plan subject to the Authority's
15 intervention under the Performance Framework and continuing ability to consider possible
16 closure proceedings following a year of implementation if circumstances warrant. Defendants
17 also should be enjoined from insisting that the school waive its rights to judicial review or face
18 closure, appointment of a receiver or board reconstitution.

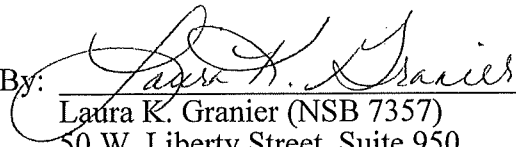
19 If Defendants are not enjoined from continuing with closure proceedings and insisting the
20 school waive its rights to judicial review Plaintiffs, all students and families served by NCA, the
21 staff and the public will suffer irreparable harm for which monetary damage will not compensate
22 plaintiffs. Defendants are threatening parents' and students' rights to educational choice and
23 their actions are dangerous, unconstitutional, and if allowed to continue will impose irreparable
24 harm across our State.

25 Plaintiffs respectfully suggest that security of no more than \$100 required by an applicant
26 pursuant to NRCP 65(c) is sufficient under the circumstances present here.
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Respectfully submitted this 1st day of November, 2016.

DAVIS GRAHAM & STUBBS LLP

By: 
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INDEX OF EXHIBITS

Exhibit	Description
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3.	Declaration of Veronica Berry
4.	Declaration of N.B.2
5.	Declaration of N.B.3
6.	Declaration of D. Benjelloun
7.	Declaration of Z. Benjelloun
8.	Oct. 27, 2016 Las Vegas Review Journal article
9.	Declaration of Alexandra Castillo
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11.	Declaration of Pauline Carey
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16.	Minutes of April 3, 2015 Senate Education Committee meeting
17.	March 24, 2016 Letter to NCA Board
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20.	Excerpts of Transcript of May 20, 2016 SPCSA Meeting
21.	Minutes of May 27, 2015 Assembly Education Committee meeting
22.	Excerpts of Transcript of July 29, 2016 SPCSA Meeting (to be provided)
23.	State Charter School Performance Framework
24.	Excerpts of Transcript of March 25, 2016 SPCSA Meeting (to be provided)
25.	Declaration of Richard Vineyard, Ph.D.
26.	Excerpts of Transcript of Sept. 20, 2016 SPCSA Meeting (to be provided)

Exhibit	Description
27.	2015 Emails between SPCSA and Nevada Virtual Academy
28.	Declaration of Sheila Flores
29.	Declaration of Laura K. Granier

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7 *Attorney for Plaintiffs*

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IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR CARSON CITY

DAVID & CARLY HELD individually and on behalf of their minor child N.H.; VERONICA BERRY individually and on behalf of her minor child J.B.; RED AND SHEILA FLORES individually and on behalf of their minor child C.F.; JAOUAD AND NAIMI BENJELLOUN, individually and on behalf of their minor children N.B.1, N.B.2, and N.B.3; KIMBERLY AND CHARLES KING individually and on behalf of their minor children L.K.1 and L.K.2; NEVADA CONNECTIONS ACADEMY,

Plaintiffs,

v.

STATE OF NEVADA, ex rel. STATE PUBLIC CHARTER SCHOOL AUTHORITY, a political subdivision of the State of Nevada, and PATRICK GAVIN, in his official capacity as Director of the State Public Charter School Authority,

Defendants.

Case No. 16-OC 00249-1B.

Dept. No. F

DECLARATION OF DAVID HELD IN SUPPORT OF MOTION FOR TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION

I, David Held, do certify under penalty of perjury as follows:

1. The matters set forth in this declaration are based on my own personal knowledge.

If called upon to testify, I am competent to testify to the matters set forth herein. I make this declaration in support of the Plaintiffs' Motion for Temporary Restraining Order and Preliminary

1 Injunction.

2 2. My son is a 9th grade student at Nevada Connections Academy ("NCA").

3 3. Nevada Connections Academy has and continues to be an amazing resource for
4 our son's education. He has always enjoyed learning. In a typical brick-and-mortar school he
5 often ran into trouble due to the fact that he would understand a lesson quickly and needed to
6 wait sometimes as long as a week or two for the rest of the class to understand before they would
7 move on. By that point he was so bored that he was talking and disrupting the class and
8 becoming a problem. His GATE (Gifted and Talented Education) teacher told us that he would
9 most likely thrive in a homeschool and/or online environment and that is exactly what has
10 happened with his online schooling at NCA. The first year we used NCA he was able to work at
11 his own pace with challenging work always being provided for him. He was able to make
12 friends that were like-minded and get to know them in online chats and on field trips that NCA
13 offers.
14 offers.

15
16 4. In my son's second year with NCA he was continuing to receive straight A's and
17 he requested to learn Japanese. In his brick-and-mortar school he was not able to choose his
18 language, Spanish was the only one available, and it was his least favorite class. Nevada
19 Connections Academy went out of their way to make it possible and, ultimately we decided to
20 wait one more year and at that time they provided him with a Japanese language class, which is
21 now his favorite class. He has an A in the class and is looking forward to a trip to Japan next
22 year where he will be able to use what he has learned.
23

24 5. By this time we were already very much in love with Nevada Connections
25 Academy and the educational opportunities it was providing for our son. We would have fought
26 for this continued school choice even then, but where NCA became even more critical to us was
27 about halfway through his second year with them. At that point our son was diagnosed with a
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1 brain condition called Chiari Malformation and we found out later that he also has two other
2 conditions, Hydrocephalus and Syringomyelia. We were told that he was going to need brain
3 surgery. The school bent over backwards and did everything to make sure that he was able to get
4 his work done.

5
6 6. My son had five brain surgeries in the second semester of the sixth grade year -
7 March 10, April 21, May 15, May 19 and May 22. In a typical brick-and-mortar school he
8 would not have been released by his doctor to attend. He would have ended up missing almost
9 the entire second half of his sixth grade year. Because Nevada Connections Academy was able
10 to work so well with my son and his needs, even with needing five surgeries he still graduated
11 with straight A's rather than falling a semester behind.

12
13 7. Unfortunately my son has required three more surgeries since then. Again his
14 doctor would not have released him to attend a brick and mortar school, he was not cleared to be
15 in an environment where we could not control the germs he would be exposed to. Because of the
16 flexibility and the amazing staff at Nevada Connections Academy my son has managed to get
17 through all eight brain surgeries and still have his absolute love for school and education.


18
19 8. So just to recap, in an ordinary brick-and-mortar school my son would now be a
20 full year behind and I can tell you heartbroken over that. Instead, he is well ahead of schedule,
21 speaking a second language, and a straight A Honor student who is eager to get to his school
22 work every single day. That is not something that comes from just any online school, that is a
23 direct result of the amazing teachers and management that helped take care of him through all of
24 it with understanding and compassion.

25
26 9. For my son this is our only school choice to serve his needs and provide his
27 education that is so critically important to him and all of us. Interference with NCA's ongoing
28 operations would cause my son irreparable harm by interfering with his education and our school

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choice. On behalf of my son and my family and the more than 3,000 students served by NCA, I ask that this Court stop the State Public Charter School Authority from interfering with the continued operations of Nevada Connections Academy.

I declare under penalty of perjury under the laws of the State of Nevada that the foregoing is true and correct and was executed this 26th day of October, 2016, in NV, Nevada.



DAVID HELD

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7 *Attorney for Plaintiffs*

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IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR CARSON CITY

DAVID & CARLY HELD individually and on behalf of their minor child N.F.; VERONICA BERRY individually and on behalf of her minor child J.B.; RED AND SHEILA FLORES individually and on behalf of their minor child C.F.; JA'OUAD AND NAIMI BENJELLOUN, individually and on behalf of their minor children N.B.1, N.B.2, and N.B.3; KIMBERLY AND CHARLES KING individually and on behalf of their minor children L.K.1 and L.K.2; NEVADA CONNECTIONS ACADEMY,

Plaintiffs,

v.

STATE OF NEVADA, ex rel. STATE PUBLIC CHARTER SCHOOL AUTHORITY, a political subdivision of the State of Nevada, and PATRICK GAVIN, in his official capacity as Director of the State Public Charter School Authority,

Defendants.

Case No. 16-OC 00249-1B

Dept. No. F

DECLARATION OF N. HELD IN SUPPORT OF MOTION FOR TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION

I, N. Held, do certify under penalty of perjury as follows:

1. The matters set forth in this declaration are based on my own personal knowledge.

If called upon to testify, I am competent to testify to the matters set forth herein. I make this declaration in support of the Plaintiffs' Motion for Temporary Restraining Order/Preliminary

Injunction:

1 2. I have been a student at Nevada Connections Academy for approximately four
2 years now. I want to explain the amazing experience I have had and how devastating it would be
3 if there was any interference or interruption with my school's ongoing operations. I went to a
4 traditional brick-and-mortar public school for grades 1-3 and my experience was plagued with
5 issues. I was a very fast learner and was far ahead of many of the kids in the class and as a result
6 I rarely paid attention in class. My grades began to slip and I was on the verge of becoming a
7 social outcast. I cared little about playing games and spent my time buried in books which left
8 me without many friends. As time went on, even the Gifted and Talented ("GT") classes proved
9 to be a little slow for me. If not for the fact that the teachers were very caring, I would have
10 simply slipped away and become a social outcast.
11

12 3. After 3rd Grade, I was homeschooled for two years. I grew a somewhat social
13 life thanks to my friends who lived across the street and I was finally challenged by my
14 curriculum. It was in 6th grade that I began with Nevada Connections Academy. I was quickly
15 put into the GT Literature, GT Language Arts, and GT Science and given the freedom I needed
16 to work at my own pace. My first semester was an amazing experience. I spent only as much
17 time as I needed on each subject before I moved on to the next and I got to choose the order of
18 lessons I worked on day by day. This freedom quickly payed off and my grades skyrocketed to
19 straight A's.
20

21 4. By the end of my first year I had completely earned the trust and respect of my
22 teachers and was given even more freedom including the ability to complete the entire week in
23 any order I chose. I had kept my straight A status as well. It was during the second year however
24 that Nevada Connections Academy changed my life. The year began normally however, about 3-
25 4 months into the school year I was diagnosed with Chiari, a medical issue caused by a part of
26 the brain hanging out of the skull. My surgery was set for March 2014, so my grandparents set
27
28

1 up a trip to Hawaii beforehand.


2 5. After the second semester started, I began to push ahead and complete school
3 work before it was due in order to nullify the amount of work I would have to do after the
4 vacation and surgery. My teachers helped out as much as they could giving me the help I needed.
5 Because of their helping hands, I completed my curriculum and ended the year as an "A"
6 student.
7

8 6. The first surgery was followed by what can only be described as a medical
9 disaster. I was diagnosed with numerous other conditions and was forced into a chain of eight
10 surgeries that lasted up until this summer. Each surgery would stop my work for at least 2 weeks
11 and if I had still been in a traditional brick-and-mortar public school it would have been 6 weeks
12 lost. My teachers were always helpful and would ease the workload to help my recovery and
13 since I never needed to move much I could resume work faster. Despite the many complications
14 however, I managed to excel in school. I've maintained my "A" status since joining and have
15 also earned the right to participate in all Honors classes. Most impressively though, I picked up
16 Japanese and am exceling in my second year as of now. I owe so much to Nevada Connections
17 Academy, both about my education and even my daily life.
18

19 7. I would be devastated if my right to choose this exceptional school to receive my
20 education was taken away from me. I believe it would cause me irreparable harm and I do not
21 know of any other option available in Nevada that could provide me the educational opportunity
22 that Nevada Connections Academy provides. I ask that this Court stop any efforts to close my
23 school or interfere with its operations.
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I declare under penalty of perjury under the laws of the State of Nevada that the foregoing is true and correct and was executed this 26th day of October, 2016, in NV, Nevada.

 *N. Field*
N. FIELD

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7 IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
8 IN AND FOR CARSON CITY

9 DAVID & CARLY HELD individually and
10 on behalf of their minor child N.H.;
11 VERONICA BERRY individually and on
12 behalf of her minor child J.B.; RED AND
13 SHEILA FLORES individually and on behalf
14 of their minor child C.F.; JAOUAD AND
15 NAIMI BENJELLOUN, individually and on
16 behalf of their minor children N.B.1, N.B.2,
17 and N.B.3; KIMBERLY AND CHARLES
18 KING individually and on behalf of their
19 minor children L.K.1 and L.K.2; NEVADA
20 CONNECTIONS ACADEMY,

21 Plaintiffs,

22 v.

23 STATE OF NEVADA, ex rel. STATE
24 PUBLIC CHARTER SCHOOL
25 AUTHORITY, a political subdivision of the
26 State of Nevada, and PATRICK GAVIN, in
27 his official capacity as Director of the State
28 Public Charter School Authority,

Defendants.

Case No. 16 OC 00249 1B

Dept. No. I

**DECLARATION OF VERONICA
BERRY IN SUPPORT OF MOTION
FOR TEMPORARY RESTRAINING
ORDER AND PRELIMINARY
INJUNCTION**

I, Veronica Berry, do certify under penalty of perjury as follows:

1. The matters set forth in this declaration are based on my own personal knowledge.

If called upon to testify, I am competent to testify to the matters set forth herein. I make this declaration in support of the Plaintiffs' Motion for Temporary Restraining Order and Preliminary

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Injunction.

2. My son was diagnosed with Asperger's syndrome when he was in the 3rd grade. Elementary school went pretty smoothly, although each year became harder for him to be accepted by his peers because he was "different" and as the others progressed, he did not. There was some bullying and teasing, and it increased through the years. Because his diagnosis is Asperger's, he struggles with certain social skills. The teachers and counselors told me that it was very important to keep him in school because he needed to be around other children to develop his social skills. So, despite the fact that I wanted to take him out of school because of the bullying and teasing, I went against my better judgement and kept him in school because the teachers and counselors told me that was best for him.

3. Junior High was an entirely different story. I drove him to school, he ran in as the bell rang because he did not want to give anyone any extra time to pick on him, and I picked him up after school for the same reason. It was breaking my heart more and more every day, but I had to do what they told me was the right thing for him. I felt like I was sending him to the wolves every day. The bullying started within a month of the start of the school year.

4. In the locker room before PE class is where the worst of it was, boys throwing water bottles and other things at him. I asked the PE teacher if he saw any of this, because at the beginning of the year he assured me he watched the boys through his window. Their solution to this was to move Jesse to a row of lockers by himself, so he was away from everyone else, separating him even more from the group that already treated him as an outcast. He missed several days of school after this incident because he was scared. But I sent him back to this school because I was told he "needed" to be around other children for his socialization.

5. The harassing continued, I went back and forth with the Dean and Principal for months. My son was then cornered in the locker room by a boy who told him he was going to

1 "Slit his throat and feed his head to his dog." He came out of school hysterical. I called the Dean
2 the next morning and the Superintendent who told me I had to schedule a meeting with the
3 Principal, so I did. I also called the Clark County School District Police and had an officer meet
4 me at the school for the meeting. The Principal did not seem to take this incident seriously, so I
5 filed a police report. I was told the boy who threatened my son would be removed from the class,
6 but he was not. I called the Dean who had my son spend the next few days sitting in her office or
7 the library during PE class, so once again he was treated as the outcast. When the semester was
8 over, my son moved to Health class, and that same boy was in his health class too. My concern
9 increased at this apparent disregard for his safety.

11 6. There were many, many more incidents, all mishandled. So I decided to pull my
12 son from his zoned public school because his life depended on it. Suicide was in his thoughts as
13 the only way out. I enrolled him with Nevada Connections Academy for his 7th grade year. He
14 is now in 11th grade, and his life from day one at Nevada Connections Academy has been
15 nothing but positive. He is excelling in school, he has a social life, he is not afraid on a daily
16 basis, like he was at his zoned school, and he found a best friend, something he never had before.

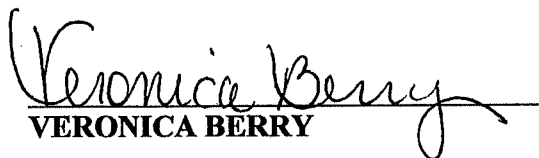
18 7. The Nevada Connections Academy staff is amazing. My son is not afraid to go to
19 school anymore. The effects from what happened to him in 6th grade are still with him, he has
20 panic attacks every time we drive past that school, and he still talks about it and gets very
21 anxious. I have to keep reminding him that we have Nevada Connections Academy now, so that
22 will NEVER happen again. Pulling out of the zoned public school and enrolling him in Nevada
23 Connections Academy was the best thing I have ever done for him. He will graduate next year,
24 and that will be a great accomplishment for him, something that wouldn't have been possible
25 without Nevada Connections Academy. For him, there is no other option.

27 8. I believe my son would be irreparably harmed if there was any interference with
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his chosen school's operations. Nevada Connections Academy is serving a critical educational need in our state to thousands of students and any interference with the school continuing to do so would cause irreparable harm to our youth and our state. I ask that this Court issue an immediate order to stop any such interference and to allow the school to continue serving the students of Nevada.

I declare under penalty of perjury under the laws of the State of Nevada that the foregoing is true and correct and was executed this 26 day of October, 2016, in Las Vegas, Nevada.


VERONICA BERRY

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Attorney for Plaintiffs

IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR CARSON CITY

DAVID & CARLY HELD individually and on behalf of their minor child N.H.; VERONICA BERRY individually and on behalf of her minor child J.B.; RED AND SHEILA FLORES individually and on behalf of their minor child C.F.; JAOUAD AND NAIMI BENJELLOUN, individually and on behalf of their minor children N.B.1, N.B.2, and N.B.3; KIMBERLY AND CHARLES KING individually and on behalf of their minor children L.K.1 and L.K.2; NEVADA CONNECTIONS ACADEMY,

Plaintiffs,

v.

STATE OF NEVADA, ex rel. STATE PUBLIC CHARTER SCHOOL AUTHORITY, a political subdivision of the State of Nevada, and PATRICK GAVIN, in his official capacity as Director of the State Public Charter School Authority,

Defendants.

Case No. 16 OC 00249 1B

Dept. No. I

**DECLARATION OF N. BENJELLOUN
IN SUPPORT OF MOTION FOR
TEMPORARY RESTRAINING ORDER
AND PRELIMINARY INJUNCTION**

I, N. Benjelloun, do certify under penalty of perjury as follows:

1. The matters set forth in this declaration are based on my own personal knowledge.

If called upon to testify, I am competent to testify to the matters set forth herein. I make this declaration in support of the Plaintiffs' Motion for Temporary Restraining Order/ Preliminary

1 Injunction.

2 2. I am a 7th grade student at Nevada Connections Academy (NCA).

3 3. Unlike most brick and mortar schools, Nevada Connections Academy lets their
4 students work at their own pace. I can do more school after my daily assignments. This comes in
5 handy when I have an event coming up, and I cannot do school that day, or when I feel I can do
6 better, by doing more school and studying more. If NCA shuts down, I would lose all the
7 advantages of going to this online school. In a brick and mortar school I would be forced to work
8 at a certain pace, and lose the ability to work ahead and study my future lessons, when my
9 assignments are graded. In a brick and mortar school my teachers will not tell me what I did
10 wrong and try to help walk me through the question(s) I missed. I would lose this anti-bullying
11 environment, and I will lose all the friends I made here at NCA.

12
13 4. My education would be deeply negatively affected, in an irreparable way, by
14 losing all the caring teachers, and the ability to take time to study my lesson, without being
15 rushed by a teacher. At a brick and mortar school I would not be able to be as independent when
16 it comes to my lesson schedule. Thanks to NCA, I do not have to worry about ever missing
17 lessons due to a doctor appointment or an important event, I can do them when I am home or the
18 day before I am busy. Nevada Connections Academy also has teachers who care about their
19 students and their jobs, they are there for you if you get stuck on a lesson or you need to submit
20 a correction for an assignment. NCA helped me in so many ways I cannot explain, and it is still
21 helping me further my education. If Nevada Connections Academy was to be shut down, I would
22 not be the only student negatively affected, hundreds of other students will lose their school,
23 their friends, and all the advantages they get with Connexus. My family has been with Nevada
24 Connections Academy for about ten years, three of my siblings graduated high school here, and
25 hopefully soon my two other siblings and I will graduate high school here too.
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5. I am glad to be going to NCA and ask that this Court stop the threatened closure proceedings against my school and order that Nevada Connections Academy be allowed to continue serving all of its students. Our school choice should not be taken away from us.

I declare under penalty of perjury under the laws of the State of Nevada that the foregoing is true and correct and was executed this 28 day of October, 2016, in Cas Vegas Nevada.

N. Benjelloun
N. BENJELLOUN

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IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR CARSON CITY

DAVID & CARLY HELD individually and on behalf of their minor child N.H.; VERONICA BERRY individually and on behalf of her minor child J.B.; RED AND SHEILA FLORES individually and on behalf of their minor child C.F.; JAOUAD AND NAIMI BENJELLOUN, individually and on behalf of their minor children N.B.1, N.B.2, and N.B.3; KIMBERLY AND CHARLES KING individually and on behalf of their minor children L.K.1 and L.K.2; NEVADA CONNECTIONS ACADEMY,

Plaintiffs,

v.

STATE OF NEVADA, ex rel. STATE PUBLIC CHARTER SCHOOL AUTHORITY, a political subdivision of the State of Nevada; and PATRICK GAVIN, in his official capacity as Director of the State Public Charter School Authority,

Defendants.

Case No. 16 OC 00249 1B

Dept. No. I

**DECLARATION OF N. BENJELLOUN
IN SUPPORT OF MOTION FOR
TEMPORARY RESTRAINING ORDER
AND PRELIMINARY INJUNCTION**

I, N. Benjelloun, do certify under penalty of perjury as follows:

1. The matters set forth in this declaration are based on my own personal knowledge.

If called upon to testify, I am competent to testify to the matters set forth herein. I make this declaration in support of the Plaintiffs' Motion for Temporary Restraining Order and Preliminary

1 Injunction.

2 2. I am a 7th grade student at Nevada Connections Academy ("NCA"). NCA
3 provides its students with very flexible hours and caring teachers, they give you the ability to be
4 independent with your schedule and studies. If Nevada Connections Academy was to be shut
5 down, many of the students would lose all their friends and all the advantages that are here at our
6 school. I would not be the only student irreparably harmed if my school were to be shut down. I
7 do not believe that the students would be able to find a school with such caring teachers, and a
8 schedule as independent as this one.

9
10 3. Most kids come here to NCA because it is an anti-bullying environment. In
11 traditional brick-and-mortar public school a lot of the kids get bullied and picked on so their best
12 option is to come to Nevada Connections Academy which has a very good anti-bullying
13 environment.

14
15 4. Unlike any other school Nevada Connections Academy has a somewhat stress
16 free environment due to the independent schedule they offer. Let's say a student had an event or
17 doctor appointment coming up, they will not have to worry about being late for class – they
18 would be able to do their school whenever they come home or even the next day.

19
20 5. During my 6th grade school year in Nevada Connections Academy I had a very
21 caring teacher who cared about his students very much. If we did not understand something he
22 would try his best to explain it to us. He had empowering quotes in every live-lesson. Even
23 though NCA is an online school it is not always behind a computer screen - they host many
24 events and field trips that you can use as an opportunity to meet your teachers and hang out with
25 your friends. Teachers of NCA host some events where they help the student with something
26 they do not understand like a portfolio and they try their best to help you with it.

27
28 6. Nevada Connections Academy also offers stuff that you cannot get at any other

1 online school. They offer many different clubs such as: chess club, robotic club, pen pal club,
2 and many more different clubs.

3 7. If Nevada Connections Academy were to be shut down it would not only cause
4 me irreparable harm by taking away my school and my education of choice, it would do impose
5 this harm on many other students. I do not believe there is any other option available in Nevada
6 that is comparable to the education Nevada Connections Academy is providing me. Other
7 schools do not allow students to work at an independent pace, allow flexible hours, or provide as
8 caring teachers as NCA does.
9

10 8. I am asking that this Court order that the attempt to close my school be stopped so
11 that my family and others in Nevada can continue to have this important option for our
12 education.
13

14 I declare under penalty of perjury under the laws of the State of Nevada that the
15 foregoing is true and corrected and was executed this 28 day of October, 2016, in Las Vegas
16 Nevada.
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19 N. Benjelloun
20 N. BENJELLOUN
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DAVID & CARLY HELD individually and on behalf of their minor child N.H.; VERONICA BERRY individually and on behalf of her minor child J.B.; RED AND SHEILA FLORES individually and on behalf of their minor child C.F.; JAOUAD AND NAIMI BENJELLOUN, individually and on behalf of their minor children N.B.1, N.B.2, and N.B.3; KIMBERLY AND CHARLES KING individually and on behalf of their minor children L.K.1 and L.K.2; NEVADA CONNECTIONS ACADEMY,

Plaintiffs,

v.

STATE OF NEVADA, ex rel. STATE PUBLIC CHARTER SCHOOL AUTHORITY, a political subdivision of the State of Nevada, and PATRICK GAVIN, in his official capacity as Director of the State Public Charter School Authority,

Defendants.

Case No. 16 OC 00249 1B

Dept. No. I

**DECLARATION OF D. BENJELLOUN
IN SUPPORT OF MOTION FOR
TEMPORARY RESTRAINING ORDER
AND PRELIMINARY INJUNCTION**

I, D. Benjelloun, do certify under penalty of perjury as follows:

1. The matters set forth in this declaration are based on my own personal knowledge.

If called upon to testify, I am competent to testify to the matters set forth herein. I make

1 this declaration in support of the Plaintiffs' Motion for Temporary Restraining Order/
2 Preliminary Injunction.

3 2. Enlightened by my parents and former classmates, it has come to my attention
4 that Nevada Connections Academy is being threatened with closure. My time has been
5 completely consumed by the great academic responsibilities demanded of me by the
6 UNLV Honors College and duties to my team on the nation-wide home-building
7 competition, the Solar Decathlon. Despite this, I find it important to find the time to do
8 what I can to make sure that this school continues to function and complete its duty of
9 preparing young minds to be competent and intelligent adults.

10 3. I attended Nevada Connections Academy my entire undergraduate life, for the
11 most part here in Nevada. This school is the reason that I have been able to prosper and
12 achieve academic success. That may sound like an overstatement but the challenges that
13 this school provided for me forced me to reach levels of determination and competence
14 that I thought were impossible and unachievable. Now, let-alone the rigorous and difficult
15 courses that the school provides, I was encouraged by my mentors, parents and teachers
16 to complete the average four-year high-school journey in a matter of two years. This was
17 not easy. I studied as the days passed into the nights, I refused to take breaks; and as soon
18 as I finished one grade of high-school, I was immediately met with another semester to
19 complete. It was my perseverance and determination, along with the great support of my
20 parents and teachers that let me accomplish this goal; but it was Nevada Connections
21 Academy that served as the catalyst. Without this school, I would have never
22 accomplished anything despite my determination.

23 4. Nevada Connections Academy has, and always will, serve as the greatest catalyst
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1 for young minds and upcoming adults to become influential world-leaders. It has always
2 done this, ever since my older brother graduated high-school seven years ago (at the age
3 of 14, and who now serves as the CEO of Tech-Start, a start-up company that prepares
4 young children for their future world of technology and computers) until now, when my
5 younger sister strives to finish her high-school journey in a single year.
6

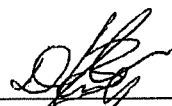
7 5. To shut down a school that has charted many journeys, and produced many
8 intelligent adults, is to not only kill the future of hundreds of children, but to further the
9 devastating decline of the United States' school system. The closure of this school is not
10 only detrimental to the immediate students and teachers here in Nevada (which already
11 has one of the worst education systems in the U.S.), but also to the nation as a whole.
12 This is the first step in many that will lead us to a chaos-ravaged nation of ignorance; and
13 ultimately, the down-fall of the United States all-together. Why take that step? Why not
14 continue to let Nevada Connections Academy prosper and nurture young-genius and
15 students of all abilities? The fact that I am writing this concerns me greatly as it means
16 that we are already headed down a path that we will never recover from, and the
17 destination of this path will make the struggle that our ancestors and forefathers faced
18 200 years ago pointless – do not shut down this school.
19
20

21 6. Closure of Nevada Connections Academy would impose irreparable harm on the
22 students it is serving and all of Nevada's and our Nation's youth. I ask this Court to stop
23 this from happening and require that Nevada Connections Academy be allowed to
24 continue providing this critical education choice to all of our youth here in this great
25 State.
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28 I declare, under penalty of perjury, under the laws of the State of Nevada, that the

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foregoing is true and corrected and was executed this 27 day of October, 2016, in Las Vegas
Nevada.



D. BENJELLOUN

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2 laura.granier@dgsllaw.com

3 50 W. Liberty Street, Suite 950

4 Reno, Nevada 89501

5 (775) 229-4219 (Telephone)

6 (775) 403-2187 (Fax)

7 *Attorney for Plaintiffs*

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Plaintiffs,

v.

STATE OF NEVADA, ex rel. STATE PUBLIC CHARTER SCHOOL AUTHORITY, a political subdivision of the State of Nevada, and PATRICK GAVIN, in his official capacity as Director of the State Public Charter School Authority,

Defendants.

Case No. 16 OC 00249 1B

Dept. No. I

**DECLARATION OF Z. BENJELLOUN
IN SUPPORT OF MOTION FOR
TEMPORARY RESTRAINING ORDER
AND PRELIMINARY INJUNCTION**

I, Z. Benjelloun, do certify under penalty of perjury as follows:

1. The matters set forth in this declaration are based on my own personal knowledge.

If called upon to testify, I am competent to testify to the matters set forth herein. I make

1 this declaration in support of the Plaintiffs' Motion for Temporary Restraining Order/
2 Preliminary Injunction.

3 2. I graduated from Nevada Connections Academy in 2013 2 years ahead of
4 schedule. My brothers/sisters currently attend Nevada Connections Academy.

5
6 3. Nevada Connections Academy helps students succeed by preparing them for life
7 after school -- especially during the high school years. The curriculum is challenging for
8 students allowing them to reach their fullest potential. While I was at Nevada
9 Connections Academy I was able to complete my school work at any time of the day
10 allowing me to pursue hobbies and talents that other school systems would prevent me
11 from doing. Nevada Connections Academy has given my family the opportunity to spend
12 quality time with each other and become involved in each other's lives. It has also given
13 me the opportunity to finish my senior year within one semester so that I could start
14 college sooner. Though the curriculum is very challenging, it is well monitored with
15 experienced teachers. This school reduced my stress level with academics because I
16 could just log on to class, so if I felt overwhelmed I could just take a break or complete
17 my assignments in the evening.

18
19 4. Nevada Connections Academy has helped me succeed academically as well as
20 socially, even though they are primarily an online school system. Students and teachers
21 within the same city would meet weekly at park events hosted by the school and often
22 had field trips that we could attend every month. Nevada Connections Academy allows
23 students to work at their own pace, relieving them of the stress and anxiety of homework
24 and assignment deadlines which greatly improves our ability to derive logical solutions to
25 any problem in both schoolwork and real life situations. The optimal curriculum
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challenges students, however does not overwhelm students. Throughout nearly the entire duration of my attendance at Nevada Connections Academy, I have overcome tedious problems through the logical reasoning that the school has taught me to perform. I do not have any trouble balancing school, jobs, and other life activities due to the occupational preparation that has been given to me from Nevada

5. I believe Nevada Connections Academy is a critical option for students in Nevada and that there is no other opportunity like this in Nevada. Any interference with the school's ongoing operations, I believe, would cause irreparable harm to students and families in Nevada who should have this important school choice for their education.

I declare under penalty of perjury under the laws of the State of Nevada that the foregoing is true and correct and was executed this 27th day of October, 2016, in Las Vegas, Nevada.



Z. BENJELLOUN

FENNEMORE CRAIG
ATTORNEYS

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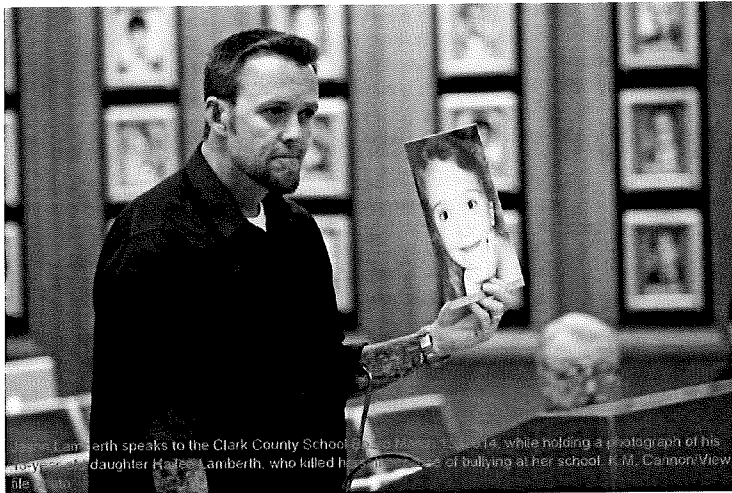
Las Vegas students build...

Reporter test rides new...

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Posted October 27, 2016 - 6:01am

Las Vegas students seek solace in online schools after being bullied



By F. ANDREW TAYLOR
VIEW STAFF WRITER

October is anti-bullying month, and local schools and organizations have made efforts to get the word out that the problem is widespread and deeply damaging.

According to the U.S. Department of Health and Human Service's website, stopbullying.gov, kids who are bullied can experience negative physical and mental health issues including depression and anxiety, changes in sleep and eating patterns and loss of interest in activities they used to enjoy. These issues may persist into adulthood.

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organization that not only gets the word out about bullying with shows and appearances at schools and on radio and television but also creates anti-bullying apps and operates a 24-hour hotline.

"We also do after-school programs with the Boys & Girls Club (of Southern Nevada) and the Urban League," said Keith Bowen, the founder and driving force of the organization. "We do a monthly coloring book. We've got an animated cartoon in development. We have our radio show every Sunday from noon to 2 p.m. on WBKE Las Vegas (an online radio station at tinyurl.com/bbradiolv) where kids can talk about bullying. They call in, and it gives them a voice and lets them get things off of their chest."

For students such as Robert Young, having a voice may be one of the most important ways to stop bullying. After he switched to the online school, his attitude transformed and his academics improved.

"He's an A and B student now," Lamesha Young said. "Where he's at now, he's able to raise his hand and speak his voice. The other students know him, and they know his name. He's happy now. He's content."

To reach East Valley View reporter F. Andrew Taylor, email ataylor@viewnews.com or call 702-380-4532.

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IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR CARSON CITY

DAVID & CARLY HELD individually and on behalf of their minor child N.H.; VERONICA BERRY individually and on behalf of her minor child J.B.; RED AND SHEILA FLORES individually and on behalf of their minor child C.F.; JAOUAD AND NAIMI BENJELLOUN, individually and on behalf of their minor children N.B.1, N.B.2, and N.B.3; KIMBERLY AND CHARLES KING individually and on behalf of their minor children L.K.1 and L.K.2; NEVADA CONNECTIONS ACADEMY,

Plaintiffs,

v.

STATE OF NEVADA, ex rel. STATE PUBLIC CHARTER SCHOOL AUTHORITY, a political subdivision of the State of Nevada, and PATRICK GAVIN, in his official capacity as Director of the State Public Charter School Authority,

Defendants.

Case No. 16 OC 00249 1B

Dept. No. I

DECLARATION OF ALEXANDRA M. CASTILLO IN SUPPORT OF MOTION FOR TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION

I, Alexandra M. Castillo, do certify under penalty of perjury as follows:

1. The matters set forth in this declaration are based on my own personal knowledge.

If called upon to testify, I am competent to testify to the matters set forth herein. I make this declaration in support of the Plaintiffs' Motion for Temporary Restraining Order and Preliminary

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Injunction.

2. My family moved to Nevada in June of 2015. My daughter, [REDACTED], was a student at a traditional brick and mortar public school, and she was excluded from classroom study groups because of her ethnicity. My daughter also suffers from general and social anxiety, as well as social phobia, and depression, as a result of bullying when we lived in Washington State.

3. Records show that my daughter is in 10th grade, because she was held back and had to recover .5 credits because of circumstances that occurred during our time in Washington. We are thankful for Nevada Connections Academy which welcomed us even with [REDACTED]'s challenges and has worked with us to get [REDACTED] back on track to graduate on-time.

4. Working with Nevada Connections Academy, we understand that as long as [REDACTED] passes everything this year at Nevada Connections Academy, and because she is taking all 11th grade classes this year, that she will be pushed to 12th grade next year and graduate on time.

5. It is very important to our family and my daughter that she graduate on-time if at all possible. If this school closes or there is interference with the school's operations, I am concerned this will eliminate [REDACTED]'s best option and our choice of schools for her.

I declare under penalty of perjury under the laws of the State of Nevada that the foregoing is true and corrected and was executed this ___ day of October, 2016, in _____, Nevada.


ALEXANDRA M. CASTILLO

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IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR CARSON CITY

DAVID & CARLY HELD individually and on behalf of their minor child N.H.; VERONICA BERRY individually and on behalf of her minor child J.B.; RED AND SHEILA FLORES individually and on behalf of their minor child C.F.; JAOUAD AND NAIMI BENJELLOUN, individually and on behalf of their minor children N.B.1, N.B.2, and N.B.3; KIMBERLY AND CHARLES KING individually and on behalf of their minor children L.K.1 and L.K.2; NEVADA CONNECTIONS ACADEMY,

Plaintiffs,

v.

STATE OF NEVADA, ex rel. STATE PUBLIC CHARTER SCHOOL AUTHORITY, a political subdivision of the State of Nevada, and PATRICK GAVIN, in his official capacity as Director of the State Public Charter School Authority,

Defendants.

Case No. 16 OC 00249 1B

Dept. No. I

DECLARATION OF DAWN STARRETT IN SUPPORT OF MOTION FOR TEMPORARY RESTRAINING ORDER/ PRELIMINARY INJUNCTION

I, Dawn Starrett, do certify under penalty of perjury as follows:

1. The matters set forth in this declaration are based on my own personal knowledge.

If called upon to testify, I am competent to testify to the matters set forth herein. I make this declaration in support of the Plaintiffs' Motion for Temporary Restraining Order/Preliminary

1 Injunction.

2 2. During her senior year, my daughter, C. Fletcher, had difficulties with the public
3 school she had been in. My daughter is battling an eating disorder and had been in treatment and
4 had returned two weeks late into the semester. Being behind and added to the stress of a
5 traditional school had only made her condition worse. She was failing all but one of her classes,
6 missing school, and her health was steadily declining. I spoke to the school counselor who did
7 not offer any viable solutions and instead told me that "failure was a great lesson." Transfer to
8 the Clark County School District online school would not have helped my daughter because still
9 being within the same school system would have resulted in a punitive outcome for my daughter.
10 I felt like no one within the Clark County School District could offer a solution with a potential
11 for a positive outcome.
12

13 3. At that point, I believed that Nevada Connections Academy was our ONLY
14 option.
15

16 4. Fast forward to graduation less than 8 months later – my daughter walked in June
17 2016 with an Honors Diploma, 4.28 weighted GPA and 4th in her class of 204 students. My
18 daughter decided to take a gap year to address her eating disorder. She has planned to apply to
19 Wellesley for Fall 2017 admission.
20

21 5. I credit NCA with saving my daughter's life by being her only option to succeed
22 in her education and in life. Just by being open and accepting students – with whatever issues
23 they brought, Nevada Connections Academy made the difference for her as she had a place to go
24 to receiver a quality education that worked for her – and saved her life. My daughter thrived at
25 NCA and did better than she ever had before. She later told me, "I'm glad you made me walk at
26 graduation. I did not think I was going to be alive today, much less graduating." I credit NCA
27 with that and believe that closing NCA would irreparably harm our youth and our State by
28

1 depriving Nevadans of this important school choice for our children.

2 6. I ask this Court to stop the threatened closure proceedings and allow NCA to
3 continue providing this important educational choice for Nevadans who, like my daughter, have
4 no other viable option for their education.
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7.

I declare under penalty of perjury under the laws of the State of Nevada that the foregoing is true and correct and was executed this 26 day of October, 2016, in Las Vegas Nevada.



DAWN STARRETT

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IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR CARSON CITY

DAVID & CARLY HELD individually and on behalf of their minor child N.H.; VERONICA BERRY individually and on behalf of her minor child J.B.; RED AND SHEILA FLORES individually and on behalf of their minor child C.F.; JAOUAD AND NAIMI BENJELLOUN, individually and on behalf of their minor children N.B.1, N.B.2, and N.B.3; KIMBERLY AND CHARLES KING individually and on behalf of their minor children L.K.1 and L.K.2; NEVADA CONNECTIONS ACADEMY,

Plaintiffs,

v.

STATE OF NEVADA, ex rel. STATE PUBLIC CHARTER SCHOOL AUTHORITY, a political subdivision of the State of Nevada, and PATRICK GAVIN, in his official capacity as Director of the State Public Charter School Authority,

Defendants.

Case No. 16 OC 00249 1B

Dept. No. I

**DECLARATION OF PAULINE CAREY
IN SUPPORT OF MOTION FOR
TEMPORARY RESTRAINING ORDER
AND PRELIMINARY INJUNCTION**

I, Pauline Carey, do certify under penalty of perjury as follows:

1. The matters set forth in this declaration are based on my own personal knowledge.

If called upon to testify, I am competent to testify to the matters set forth herein. I make this declaration in support of the Plaintiffs' Motion for Temporary Restraining Order and Preliminary

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Injunction.

2. I do not want Nevada Connection Academy to close as I believe it is a critical school choice for Nevadans. I pulled my son from the traditional Nevada public schools because my experience was that the teachers do not care. If you dare ask the teacher how to help raise your child's grade in a subject, they look at you like you are stupid and try to down talk you as if you insulted their teaching ways. The middle school I am zoned for has one star out of five – what is that telling me as a parent about my choice if Nevada Connections Academy is taken away from us?

3. I want what is best for my son - a good education - and Nevada traditional public schools are not giving that to him. If we are still here when my youngest son starts kindergarten he will be going to Nevada Connections Academy, too. We are a military family. We need a good school and Nevada Connections Academy is it. My son has learned more in the six-seven weeks at Nevada Connection Academy than he has in two years in Nevada traditional public school. His grades and his academic progress prove it.

4. I believe closing Nevada Connections Academy would harm Nevada's youth and the entire state in an irreparable way by depriving us all of a critical choice in public education. I ask that this Court stop the threatened closure proceedings and order that our school be allowed to continue serving us and other Nevada students without interference.

I declare under penalty of perjury under the laws of the State of Nevada that the foregoing is true and corrected and was executed this 27 day of October, 2016, in Las Vegas Nevada.


PAULINE CAREY

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IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR CARSON CITY

DAVID & CARLY HELD individually and on behalf of their minor child N.H.; VERONICA BERRY individually and on behalf of her minor child J.B.; RED AND SHEILA FLORES individually and on behalf of their minor child C.F.; JAOUAD AND NAIMI BENJELLOUN, individually and on behalf of their minor children N.B.1, N.B.2, and N.B.3; KIMBERLY AND CHARLES KING individually and on behalf of their minor children L.K.1 and L.K.2; NEVADA CONNECTIONS ACADEMY,

Plaintiffs,

v.

STATE OF NEVADA, ex rel. STATE PUBLIC CHARTER SCHOOL AUTHORITY, a political subdivision of the State of Nevada, and PATRICK GAVIN, in his official capacity as Director of the State Public Charter School Authority,

Defendants.

Case No. 16 OC 00249 1B

Dept. No. I

DECLARATION OF MICHELLE NELSON IN SUPPORT OF MOTION FOR TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION

I, Michelle Nelson, do certify under penalty of perjury as follows:

1. The matters set forth in this declaration are based on my own personal knowledge.

If called upon to testify, I am competent to testify to the matters set forth herein. I make this declaration in support of the Plaintiffs' Motion for Temporary Restraining Order and Preliminary

1 Injunction.

2 2. I am a lifetime resident of this great state of Nevada. I am very concerned about
3 the State Public Charter School Authority's misguided decision to try and disrupt operations of
4 Nevada Connections Academy. Our state has continued issues with education, consistently
5 ranking near the bottom of all sorts of polls. Numbers don't really matter to me – what does
6 matter to me is my child and the education she is receiving.
7

8 3. My daughter Tara is 16 years old. In 2014, she fell ill with what we thought was
9 epilepsy. What has gone on for the past two years can only be described as every parent's worst
10 nightmare. My once very active daughter has become a slave to a yet undiagnosed disorder that
11 has robbed her of many things – bodily functions, a pain free existence, a normal teen life, and a
12 lot of her friends. When we had to pull her from her traditional public school in the Clark County
13 School District ("CCSD") mid-semester due to her extreme health issues, the CCSD option for
14 online school refused to enroll her and told us that she should just fail the current semester, start
15 with them second semester, and take remedial/makeup courses in the summer. That is
16 ridiculous, would be expensive, and it would make it difficult to impossible for her to catch up.
17 Who on earth would expect someone to pass 2nd semester Geometry after failing the first half?
18

19 4. My daughter was an honors student before all of this began, and I was adamant
20 that I would not let the disease rob her of one more thing. We researched and found Nevada
21 Connections Academy, who was willing to take her, work with her 504, and help her succeed.
22

23 5. My daughter IS succeeding through Nevada Connections Academy and is
24 currently on pace to graduate next year with the rest of her peers, despite severe medical issues.
25 She has also maintained a 4.0 GPA and entered Honor Society. This would not have been
26 possible at her CCSD school due to her health issues. This program is extremely structured and
27 she is in most cases learning more than she would have from in-person classes at her zoned
28

1 school. Her teachers are responsive to her educational needs and make themselves available to
2 her when she needs help. They are also accommodating of her health issues and help her strive
3 to do her best, giving extra time where needed.

4 6. Our experience at Nevada Connections Academy has been good and eliminating
5 or interfering with this option for our daughter to receive her education would cause her (and us)
6 and we believe other students in the state irreparable harm.
7

8 I declare under penalty of perjury under the laws of the State of Nevada that the
9 foregoing is true and corrected and was executed this 21ST day of October, 2016, in Henderson,
10 Nevada.

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14 MICHELLE NELSON
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IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR CARSON CITY

DAVID & CARLY HELD individually and on behalf of their minor child N.H.; VERONICA BERRY individually and on behalf of her minor child J.B.; RED AND SHEILA FLORES individually and on behalf of their minor child C.F.; JAOUAD AND NAIMI BENJELLOUN, individually and on behalf of their minor children N.B.1, N.B.2, and N.B.3; KIMBERLY AND CHARLES KING individually and on behalf of their minor children L.K.1 and L.K.2; NEVADA CONNECTIONS ACADEMY,

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STATE OF NEVADA, ex rel. STATE PUBLIC CHARTER SCHOOL AUTHORITY, a political subdivision of the State of Nevada, and PATRICK GAVIN, in his official capacity as Director of the State Public Charter School Authority,

Defendants.

Case No. 16 OC 00249 1B

Dept. No. I

DECLARATION OF STEVEN WERLEIN IN SUPPORT OF MOTION FOR TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION

I, Steven Werlein, do certify under penalty of perjury as follows:

1. The matters set forth in this declaration are based on my own personal knowledge.

If called upon to testify, I am competent to testify to the matters set forth herein. I make this declaration in support of the Plaintiffs' Motion for Temporary Restraining Order and Preliminary

1 Injunction.

2 2. I am the Principal and School Leader of Nevada Connections Academy (“NCA”).
3 I have held this position since July, 2013. I have a BA in international political economy and
4 Spanish from DePaul University, an MEd in secondary teaching and curriculum from DePaul
5 University, and a Certificate of advanced study in school leadership from National Louis
6 University. I am currently pursuing doctoral studies and the American College of Education.
7

8 3. NCA is an accredited, comprehensive, online public charter school serving more
9 than 3,200 students in Kindergarten through 12th grade from across the State of Nevada. We
10 provide highly individualized learning opportunities for students and an important innovative
11 option, serving a high population of credit deficient students, students with learning and physical
12 disabilities, elite athletes and actors, in addition to highly gifted, talented, and motivated
13 students. We also serve students who have not been successfully served by the traditional public
14 schools and sometimes have been the victims of bullying or experienced other significant issues
15 that prevented them from succeeding at their former schools.
16

17 4. NCA’s high school graduation rate for students who enrolled in NCA on cohort
18 (on-track for an on-time graduation) and stayed through the end of their senior year in 2015 was
19 73.3%.

20 5. Approximately 50% of the students that were part of the 2015 graduation cohort
21 were behind in credits when they enrolled in NCA. Over 40% of the non-graduates in the 2015
22 cohort were enrolled in NCA for less than three-fourths of the school year – meaning NCA had
23 very little time to influence their on-time graduation status and their credit-deficiencies do not
24 reflect NCA’s performance but the performance of their prior school(s).
25

26 6. Nearly 50% of students enrolled in NCA qualified for free or reduced lunch
27 program.
28

1 7. NCA's most recent rating by the Nevada Department of Education ("NDE")
2 indicates NCA's middle school is a "4 star school" based on student achievement information
3 which, according to NDE means NCA is "among the highest performing schools in Nevada in
4 student proficiency and/or student growth on the State assessments." Our four-star middle
5 school currently is the subject of the SPSCA's closure proceedings.
6

7 8. Attached hereto as **Exhibit A** is a true and correct copy of the last written
8 performance evaluation NCA received from the SPSCA which states that the school is in "good
9 standing." NCA never received any notice of concern, notice of breach or any other
10 communication from the Authority staff or Director expressing concerns about the school's four-
11 year cohort graduation rate or any other academic performance. The first we heard the Authority
12 was seeking to take any corrective or other action against NCA based on the four-year cohort
13 graduation rate was when we received a publicly posted agenda for the February 2016 SPSCA
14 meeting that included us on an action item for issuance of a notice of closure.
15

16 9. On February 22, 2016, with no communication expressing any concern with
17 NCA's operations, notice by letter, phone call or otherwise, NCA received a copy of a publicly
18 posted agenda for the Authority's February 26, 2016 meeting which included an item for
19 consideration of issuance of a notice of closure to NCA.
20

21 10. Apparently based on the lack of notice and that NCA was not even advised why it
22 was included in the agenda item prior to the meeting, the Authority took no action on the agenda
23 item at its meeting in February 2016. Although NCA attended the meeting and stayed until the
24 end for the purpose of providing public comment at the meeting, the Authority chairman
25 announced at 4:30 PM they had to clear the room they were in and adjourned the meeting before
26 NCA representatives had the chance to complete their public comment.

27 11. After the Agency's February meeting, through discussions with Director Gavin,
28 NCA learned that it had been placed on the agenda solely because its high school four-year

1 cohort graduation rate for the prior year was below 60%. Director Gavin confirmed he had no
2 other issues with the school – no performance or other concerns with NCA’s grades K-8 and no
3 other concerns with NCA’s high school. Director Gavin asserted that under SB 509 the
4 Authority would consider whether it should issue a notice of closure to NCA based on the prior
5 year’s four-year cohort graduation rate for NCA’s high school grades and that NCA was
6 included to treat all “similarly situated schools equally.”

7 12. In September 2015, I met with Director of the State Public Charter School
8 Authority, Patrick Gavin, his deputy Attorney General, Greg Ott, NCA’s counsel, Laura Granier,
9 and the NCA Board President Jafeth Sanchez. We requested that meeting specifically to discuss
10 with Mr. Gavin the new statutory provision enacted by the 2015 Nevada Legislature under
11 Senate Bill 509 (“SB 509”) that allowed the SPSCA to consider closure of a charter school high
12 school if it had a graduation rate of less than 60% in the prior year. Although we did not believe
13 the provision would apply retroactively, because of discussions between school representatives
14 and Mr. Gavin and State Superintendent for the Nevada Department of Education, Steve
15 Canavero during the legislative session, we understood the NDE and SPSCA would be working
16 collaboratively with charter schools to ensure meaningful data and performance information,
17 both qualitative and quantitative were being considered. During that meeting, Director Gavin
18 told us we should proceed to have discussions with NDE but that with respect to the SPSCA he
19 “had bigger fish to fry” indicating possible closure of NCA on this basis was not anticipated for
20 the upcoming year.
21
22

23 13. I have spent a great deal of time evaluating our graduation rate, both based on the
24 four-year cohort number the SPSCA is focusing on and also how our students are doing
25 academically. What our detailed information shows, which we have shared with the SPSCA and
26 currently are having a third party validate at Director Gavin’s request, is that the four year cohort
27 graduation rate for NCA is below 60% as a result of NCA serving a significant number of credit
28

1 deficient high school students, who often enroll late in their high school career. NCA is held
2 accountable for those student's prior schools' failures, and because there are a number of
3 students who are no longer at NCA but are "lost in the system" and, therefore, counted as
4 "dropouts" against NCA's high school graduation rate.

5
6 14. When I say "lost in the system" I mean that they have withdrawn from NCA but
7 sometimes due to record keeping issues at their new schools, or relocation to a new state and lack
8 of communicating that to NCA, they may have gone on to complete their high school education
9 or be actively enrolled in school in Nevada or someplace else but because they have not been
10 accounted for in the NDE data base, they are considered a dropout and decrease NCA's four-year
11 cohort graduation rate.

12
13 15. Director Gavin suggested to us in September 2015 that we hire a private
14 investigator to try to track down these students and we have done so and also have a full time
15 employee for the school attempting to locate where these students have gone. I estimate that
16 accounting just for these students, which do not reflect at all on NCA's academics or
17 performance, could increase our four-year cohort graduation rate by 5%-7% percentage points.
18 Additional time and resources at the school level are also being dedicated to "finding" these
19 students - many of whom were enrolled 4 years ago.

20
21 16. Unfortunately, although in prior years we have had information about these
22 students from the SPSCA in July to give us several months to try to identify where they went and
23 could therefore increase our graduation rate on this basis, the SPSCA withheld that information
24 from us until just a couple of weeks ago.

25
26 17. The SPSCA's delay in sharing this information with NCA is imposing a severe
27 hardship on NCA and calls into question the reliability of the graduation rate SPSCA is using.
28 By early October last year (2015), we were starting on a second validation window for the 2015

1 four year cohort graduation rate, having received information on it from the SPSCA in July of
2 2015. This year, we were not provided any information to start the cohort validation process for
3 2016 until October 3, 2016, when Gunes Kaplan with the NDE emailed the school to request our
4 preliminary rates. At that time, we were informed that “technical issues were causing delays in
5 the validation” and that validation would open as soon as those technical issues were resolved
6 but that the due date for the final four-year cohort graduation rate would be December 15, 2016.

8 18. NCA is diligently reviewing and identifying students who need exit data updated
9 to prepare for the validation, but it is imperative that the school sees what the State is pulling to
10 identify any potential technical issues or discrepancies. I understand there were many issues
11 with the 2015 cohort data due to technical issues in Infinite Campus, an electronic database used
12 by the State and schools to record student information. With the move to state-wide Infinite
13 Campus during the summer of 2016 we have seen technical issues and want to ensure NCA has
14 an accurate graduation rate reported.

16 19. In addition, in August 2016, the school’s access to update exit information for
17 previous school years was eliminated. As NCA continues to receive new information about
18 students who have withdrawn, such as that Mr. Gavin suggested we pursue, we are now unable
19 to edit exit codes. I understand the SPSCA will not grant any schools access to edit historical
20 data – even to ensure accuracy which is necessary for an accurate adjusted cohort graduation
21 rate.

23 20. After the school followed up numerous more times with the SPSCA on this, we
24 did learn that the SPSCA would require “one request per student” which puts an extreme
25 hardship on the school as we currently have at least 1,500 updates to request for students who did
26 not return after summer break and further updates will be needed as a result of our efforts to
27 track students’ whereabouts to clear them as dropouts from prior years as Mr. Gavin suggested
28

1 we do. Given the short period of time for validation, and the fact that this year we have only a
2 matter of weeks because the SPSCA withheld the “unvalidated” information until just a couple
3 of weeks ago, this delay in having to go through the SPSCA for corrections could affect the
4 accuracy of NCA’s reports and the purported four year cohort graduation rate.

5
6 21. Through our efforts to locate students who have left NCA, we currently have
7 information on between 50-60 students which we estimate will increase our four-year cohort
8 graduation rate by 5-10 percentage points. It is important to note that this number is not only
9 fluid, but depends on the cooperation of receiving schools, families, and often the students
10 themselves who may or may not wish to share such information.

11 22. Another significant factor in our four-year cohort graduation rate is the number of
12 credit deficient students we enroll. For the 2016 school year nearly 50% of our high school
13 students enrolled were behind in credits. We also are seeing a trending increase in students
14 being “counseled” by their zone schools to leave and enroll in an online school when they get
15 behind in credits. For the 2016 school year, we have enrolled 633 high school students since
16 October 1, 2016, who are behind in credits, 408 of those students came to us from the Clark
17 County school district.

18
19 23. On September 14, 2016, a reengagement specialist from a local school district
20 contacted me to ask about how verification that a student has enrolled at NCA when “referred” to
21 us by a local school district. If that local district was sending credit deficient students to NCA, it
22 would be important for that school to document that student’s enrollment to take them out of the
23 calculation of the district school’s graduation rate.

24
25 24. Attached hereto as **Exhibit B** is a true and correct copy of our NCA Graduation
26 Rate Improvement Plan that we prepared at the SPSCA’s direction and in cooperation with their
27 staff and that the SPSCA praised at its May 2016 public meeting, directing us to move ahead
28

1 with implementation and work with the SPSCA staff on “benchmarks” for improvement.

2 25. As reflected in the NCA Graduation Rate Improvement Plan, NCA was diligent in
3 knowing where each and every student is on the path to graduation and identified that of the non-
4 graduates for 2015, 40.9% of them enrolled with NCA in the 12th grade; six of them enrolled
5 with NCA for one month or less and one student who counted as a “dropout” in NCA’s four-year
6 cohort calculation was enrolled with NCA for only 14 days before the end of the school year.
7 Clearly this does not reflect NCA’s performance but demonstrates that considering only the four-
8 year cohort graduation penalizes NCA for the failed performance of the students’ prior school(s).
9 The fact that such students are included in NCA’s four-year cohort graduation rate also provides
10 a perverse incentive for other schools to “send” or “counsel out” these students as the end of the
11 school year approaches so that the students are not included in the sending school’s graduation
12 rate calculation and they, therefore, avoid accountability. Director Gavin has acknowledged this
13 is a problem.
14
15

16 26. We have reviewed relevant student data and estimate that if students who enrolled
17 for a 5th year, go into Adult Education, or entered a GED program are removed from the cohort,
18 then the graduation rate for NCA would be 63.3% for 2015.

19 27. In response to the Authority’s directive at its March 2016 meeting, NCA spent
20 weeks working collaboratively with the Authority Staff and NCA’s own team of experts to
21 prepare what the Authority recognized to be a very commendable graduation rate improvement
22 plan. Exhibit B. NCA’s changes started with a cohort analysis that detailed every student in the
23 2015-16 four-year cohort with regard to their credit status that guided assignment of credit
24 deficient students to programs, support and interventions, depending on their credit status,
25 tailored to their individual needs to help them earn a high school diploma. NCA already has seen
26 success in these improvements and anticipates as much as a 10 percentage point increase over
27 2015 performance. One of the benefits NCA provides its students is a highly individualized
28

1 approach to learning through targeted instruction, counseling and the implementation and
2 monitoring of individualized graduation plans.

3 28. NCA's high school graduation rate improvement plan includes regular tracking
4 and research and increased internal communication about the status of each potential cohort
5 member and his/her status upon exit and entry. Based on the request of Director Gavin, the NCA
6 board also approved identification and selection of an external evaluator to review the 2015 and
7 2016 graduation cohort. Director Gavin indicated that data should be validated to ensure it
8 supports the conclusions regarding the student body characteristics and progress NCA presented
9 to the Agency. Yet, recently, Director Gavin's recommendation is that the Authority will not
10 necessarily consider such evidence or information relative to closure decisions even though the
11 school has gone to significant expense at his request to "validate" it.

12 29. The NCA high school graduation rate improvement plan also provides for NCA's
13 use of a pilot program called "GradPoint" – a leading high quality credit recovery program used
14 by more than 1,000 school districts in 45 states. NCA increased its usage of this credit recovery
15 program during the summer of 2016 and has extended it into the 2016-17 school year.

16 30. The Authority not only accepted the NCA high school graduation improvement
17 plan but praised it. NCA is implementing it and seeing success from it.

18 31. After several weeks of discussions regarding the benchmarks, the Director
19 presented a recommendation to the Authority that the benchmarks NCA proposed be approved
20 but with surprising conditions never mentioned to NCA. The morning of the Authority meeting,
21 the Director's report was made available to the public and to NCA for the first time on the
22 Authority's website. It was only then NCA learned the Director was recommending that the
23 Authority approve the benchmarks only on the condition that NCA enter into the same contract
24 proposed for another school, Beacon Academy, and attached that draft contract to the staff
25 report. For reasons unknown to NCA, prior to that the Director had never shared his proposed
26 contract for NCA to review or his recommendation made that morning to the Authority **that**
27 **such contract should include a waiver of NCA's rights to judicial review** on certain actions
28 by the Authority to appoint a receiver or reconstitute the NCA governing board.

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32. NCA never received a notice of concern or a notice of breach. Furthermore, no issues of concern or other acknowledgements of deficiency have ever been issued to the school. The last written communication from the SPCSA listed the school as “in good standing.”

33. The Authority has never done a site visit at NCA and, therefore, has never compiled or provided site visit data as required by the Performance Framework. The Authority Staff has never engaged in a meaningful dialogue with the school prior to placing NCA on the February 2016 agenda for a notice of closure.

1 I declare under penalty of perjury under the laws of the State of Nevada that the
2 foregoing is true and correct and was executed this 1st day of November, 2016,
3 in Reno, Nevada.

4 
5 _____
6 STEVEN WERLEIN

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EXHIBIT A

EXHIBIT A

BRIAN SANDOVAL
Governor

STATE OF NEVADA

PATRICK GAVIN
Director



STATE PUBLIC CHARTER SCHOOL AUTHORITY

1749 North Stewart Street Suite 40
Carson City, Nevada 89706-2543
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Nevada Connections Academy

Sent Via Email

Dear Steve Werlein:

In June 2013, the State Public Charter School Authority (SPCSA) Board adopted a Charter School Performance Framework (Framework), which provides charter school boards and leaders with clear expectations, fact-based oversight, and timely feedback while ensuring charter autonomy. Through the Framework we monitor SPCSA-sponsored charter school performance in the following areas: Organizational, Financial and Academic.

According to the adopted Framework, annual academic performance reviews will be provided to charter school boards and school leaders each fall following the release of the State's star ratings. Occasionally, the routine annual review of academic performance will result in an adverse finding of academic underperformance or alternatively, findings of exceptional performance. In the case of an adverse finding of academic underperformance, the school will move out of Good Standing and enter the first level of the intervention ladder (i.e., receive a Notice of Concern). In the case of exceptional performance, the school will receive the Quality School designation. Please reference the following tables to understand how your school's academic performance compares to the Authority's designations.

Designation	Annual Framework Designation		Authority Rating
	NSPF		
Quality	4-star or 5-star	AND	"Exceptional" or "Exceeds"
Good Standing	Any combination of 2-star, 3-star, or 4-star	AND	"Approaches" or above
Academic Underperformance	Any combination of 1-star or 2-star	AND	"Unsatisfactory" or "Critical"

Authority Rating	School Score
Exceptional	EX ≥95
Exceeds	EC ≥75 and <95
Adequate	AD ≥50 and <75
Approaches	AP ≥25 and <50
Unsatisfactory	U ≥5 and <25
Critical	C <5

The 2013-2014 Academic Profile for Nevada Connections Academy is currently available in Bighorn. Nevada Connection's profile can be accessed using the following path: [Bighorn](#) > [Files](#) > [State Charter School Documents](#) > [18405 NV Connections Academy](#) > [Authority Framework](#). You will find one document in the Authority Framework folder which includes the 2013-2014 academic profile and zoned school report results. The zoned school report was compiled using 10th grade HSPE Math and Reading proficiency scores for high school levels and adequate growth percentages for the elementary and middle school levels. These scores were pulled from the validated proficiency files used for the NSPF report.

During the 2011-2012 validation round, NV Connections earned a total of 48.43 points resulting in a rating of "Approaches." For 2012-2013, NV Connections earned a total of 50.78 points, resulting in an Authority rating of "Adequate". For 2013-2014, NV Connections earned a total of 42.14 points, resulting in an Authority rating of "Approaches". Although the aggregate score of 42.14 is below the Authority's adopted standard of 50 points, NV Connections is considered to be in **Good Standing**.

Authority staff are available to meet and discuss any aspect of the Academic Profile, Charter School Performance Framework, and/or the Nevada School Performance Framework – please contact Danny Peltier to schedule a time that is convenient for everyone.

Sincerely,



Patrick Gavin

Director, State Public Charter School Authority

Copy: Jamie Castle, Governing Board President

EXHIBIT B

EXHIBIT B



Graduation Rate Improvement Plan

Submitted to:

State Public Charter School Authority

By:

Nevada Connections Academy
Board of Directors¹

May 16, 2016

¹ The final version of this plan is on the NCA Board's agenda for review and possible approval on May 17, 2016. NCA will update the Authority with respect to the action the NCA Board takes on this version of the plan.

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1. Executive Summary

The Board of Directors of Nevada Connections Academy (NCA) has taken steps to improve its cohort graduation rate. Specifically, the Board has put in place a set of policies, programs, and interventions (detailed in this plan) starting in the fall of 2015 to significantly improve the four-year cohort graduation rate for the 2015-16 cohort and beyond. The NCA Board also recognizes that graduation rate is one metric among many metrics that need to be examined in order to determine an accurate picture of school performance (See Appendix A).

The Nevada State Public Charter School Authority (the Authority) shared its concerns about NCA's graduation rate at the March 2016 Authority Board meeting and specifically expressed its desire that NCA would work with Authority Staff to develop a comprehensive plan to raise NCA's four-year cohort graduation rate.

In response to the direction received from the Authority during the March Authority meeting, the NCA Board, school leadership, and Authority Staff have held several meetings to discuss improving the NCA four-year cohort graduation rate while continuing to serve a significant population of credit-deficient high school students and helping all NCA students to academically succeed. For the 2015 graduation cohort (334 students), 143 (42.8%) were two or more credits behind when they enrolled; 56 (16.8%) were more than six credits behind when they enrolled. More information is provided in Appendix B. The plan detailed herein is the result of the collaboration between the NCA team and Authority Staff.

This plan builds on the school performance initiatives previously adopted by the NCA Board for implementation during the 2015-2016 school year. Based on current indicators, the NCA Board believes that the programs put in place during the 2015-16 school year will result in a measurable improvement in the graduation rate of the 2015-16 cohort, and thus will provide a solid base upon which to build the further improvements expected from this plan:

- The projected graduation rate for 2016 reflects a significant increase over the prior year.
- The percentage of anticipated graduates that entered behind in credits is 14.2% of the graduates compared to 10.1% for the 2015 graduates. This is an indication that NCA is doing a better job at helping students that enter credit deficient to graduate on-time for the 2015-16 school year.
- When comparing the 2016 anticipated cohort with the 2015 cohort, the percentage of students who enrolled two or more credits behind and the percentage that enrolled six or more credits behind were significantly higher in 2016. Despite having a slightly more challenging population of students this year, the projected graduation rate shows an increase, an indication that the steps taken to improve the graduation rate are showing results (See Appendix C for more details).

The NCA Board thanks the Authority Board and Staff for its collaboration in developing this plan and for its assistance in helping NCA address the four-year cohort graduation rate issue. The NCA Board believes that this plan demonstrates challenging yet achievable goals for improving the four-year cohort graduation rate.

2. 2015-16 School Year Improvements

NCA implemented significant changes during the 2015-16 school year to improve graduation rate. The changes started with a cohort analysis (described in Appendix B) that detailed every student in the 2015-16 four-year cohort with regards to their credit status. As proper academic placement and tracking within a robust, credit earning and recovery program is the foundation for success, credit deficient students were assigned programs, support, and interventions, depending on their credit status (on-track, two or fewer credits deficient, two to six credits deficient, etc), tailored to their individual needs to help them earn a high school diploma. The level of support and type of intervention is based on student need and changes as the student progresses through the program.

We have begun to see success in these improvements and implementations; for example, of all Credit Recovery courses attempted, approximately 80% were passed. Additionally, we anticipate that the 2016 four-year cohort graduation rate calculated under No Child Left Behind (NCLB) that will result from these efforts will increase at least 10% over the 2015 performance (details are included in Appendix C). The following section details the full scope of the supports and interventions implemented during the 2015-16 school year.

2.1 Internal & External Data Validation

Internal Data Validation Efforts

One of the benefits that NCA provides its students is a highly individualized approach to learning through targeted instruction, counseling, and the implementation and monitoring of individualized graduation plans. Each student in the 2015-16 graduation cohort has been individually reviewed and placed into one of three groups. Group 1 students are on track for graduation and based on performance and previous course completion and are anticipated to be counted as graduates in the 2016 cohort. Group 2 students are two to six semester-length courses behind and through remedial coursework can still potentially graduate on-time. Many of these students were credit deficient at the time of their enrollment in NCA, and through NCA's credit recovery program, they have caught up. Group 3 students are severely off cohort and are not likely to graduate on-time because they are more than six semester courses behind. Similar to Group 2 students, many of these students were credit deficient at the time of their enrollment in NCA. Students included in this group are unlikely to graduate as part of the 2016 cohort as it is not possible to graduate them and ensure that academic standards are being met. However, we are confident that with the right programming, support, and monitoring, they will graduate with a high school diploma in future years. Serving these students is an important part of NCA's mission. Because of the initiatives NCA has already implemented, progress is being made with this severely credit deficient population. One of NCA's strengths is its unique position to provide highly targeted and supportive programs which are data based and involve the participation of many school staff. Effectively harnessing that strength for the betterment of all students that NCA serves is a key focus of this plan. Appendix C provides a more detailed analysis and progress.

An important data point and influencing factor on the NCA cohort graduation rate is the high transiency of the NCA high school student population. According to the Nevada Department of Education, the transiency rate based on the 2014-2015 state report cards for NCA is 43.3% vs. the State's 26.5% and Clark County's 28.8% (see Appendix D for more details). NCA's transiency rate is significantly higher than the state and Clark County for a number of reasons. In general, virtual schools have a high transiency rate due to the various factors compelling a student to enroll in a virtual school. Many students chose NCA to solve a problem for a particular period of time such as bullying, medical issues, family situation, pregnancy, or other crisis situation or they join NCA as a "last resort" before dropping out of school. **Over 69% of the anticipated non-graduates for 2016 have been enrolled less than one year – meaning NCA has had very little time to influence their on-time graduation status and that their credit deficiencies do not reflect NCA's performance but the performance of their prior school(s).**

The Authority staff has identified as an objective for NCA to increase its efforts to identify these students and where they go after leaving NCA. As a result, the school has intensified its efforts to locate and confirm the whereabouts and programming of students who withdraw from NCA, even after being enrolled for only a short amount of time. These efforts are led by the school's reporting coordinator and use the state's reporting system, our internal Education Management System (EMS), and other sources of information as needed. A detailed, multi-step process for confirming student enrollment status and locating withdrawn students begins well before the official "validation" period in September. When needed, the school will use the services of carefully selected, experienced third party services to assist in locating students who have withdrawn and could adversely affect the cohort rate.

Ongoing communication is essential to the internal validation efforts and ultimate improvement of the NCA four-year cohort graduation rate. This includes regular tracking and research and increased internal communication about the status of each potential cohort member and his/her status upon exit and entry. Given the transiency rate of our population (referenced previously) this is particularly important. This communication also ensures that currently and newly enrolled students are not only progressing but are receiving pro-active instructional, counseling, and administrative support. We anticipate that additional tracking and data focused on these students during the 2015-16 school year will make a measureable difference in the four-year cohort graduation rate for the 2016 cohort. What is even more encouraging is that these increased data efforts are now occurring immediately after a student withdraws and will have long term impact on the graduation cohorts in future years.

External Data Validation Efforts

Based upon a recommendation by the Authority Executive Director, the NCA Board approved the identification and selection of an external evaluator at its April 2016 Board meeting. NCA seeks to engage an external evaluator by June 2016 to review both the 2015 graduation cohort and the 2016 graduation cohort. This organization (or individual) will look at not only data sources readily available through the Nevada Department of Education, but will also look at internal data to determine if it supports the conclusions regarding student body characteristics and progress that have been previously presented by the school. This resource will also be asked to address whether the graduation rate has been correctly attributed to NCA by the Nevada Department of Education, consistent with NEV. REV. STAT. ANN. § 385.347 (2016) which requires that the Authority prepare an annual report of accountability for each of the charter schools it sponsors and include information prescribed by regulation of the Nevada Department of Education including the graduation and drop out rate of pupils enrolled. NRS 385.347 mandates the dropout rate exclude pupils who provide proof of successful completion of the high school equivalency assessment, are enrolled in courses approved by the NDE as meeting the

requirements for an adult standard diploma, or withdraw from school to attend another school.² This review may identify students who were in the 2015 or perhaps in the 2016 cohort who were incorrectly categorized as dropouts in the 4-year cohort graduation rate being considered by the Authority.

The NCA Board and school leadership team anticipate many benefits of this external evaluation including verification of data, analysis of graduate and non-graduate trends, and recommendations for improvement. The specifics of selecting the third party, their timeline and deliverables, and the scope of their work are being discussed by and will be mutually agreed upon by NCA and the Authority. We are currently in the process of discussing the project's scope and deliverables with a reputable, national organization.

2.2 Credit Retrieval Courses for Credit Deficient Students

In an effort to bring credit deficient students to "on-track" status, NCA initiated a 2015-16 pilot using GradPoint™, a leading high quality credit recovery program used by more than 1,000 school districts in 45 states. In the pilot, the NCA Board purchased 100 licenses. In addition to increasing graduation rate for the 2016 cohort, this effort will provide high school students in other cohorts the opportunity to earn missing credits. During this school year, 150 students have benefitted from participating in credit recovery courses.

Currently, there is an 80% pass rate in the GradPoint Pilot program. This translates to over 200 semester credits being earned by students.

GradPoint offers a diagnostic-prescriptive virtual learning solution. The student-centered philosophy behind GradPoint's courses includes the necessary support features to facilitate and guide customized credit recovery:

- Prescriptive-diagnostic assessment and instructional sequencing tools that tailor and deliver personalized learning for every student.
- Engaging content and interactive, collaborative learning elements to re-engage at-risk students.
- Instruction, activities, and assessments that address diverse learning modalities and enable students to demonstrate content mastery in a variety of ways.
- Robust progress monitoring tools.

GradPoint's prescriptive courses provide a personalized pathway through the course based on needs, saving valuable learning time and increasing student motivation. Students take a pre-test and a post-test with every module. Based on their results, they are assigned lessons in areas in which they did not demonstrate mastery and are exempted from other lessons they have already mastered.

NCA is pleased with these results and looks forward to an even greater number of credits being earned before the end of the school year. NCA plans to increase its usage of credit recovery programs during the summer of 2016 and extend it into the 2016-17 school year and beyond.

² Also, NEV. ADMIN. CODE § 389.699(3) (2015) states, "A pupil who qualifies for a certificate of attendance must not be counted as a dropout." A certificate of attendance is issued to a student who is over 17 and has completed the required credits to graduate, but has not passed the required proficiency exams.

2.3 Summer School

The four-year cohort graduation rate calculation includes students who complete their high school during the summer of their graduation year. Summer school provides an opportunity for many students to “catch up” and be on track for graduation. In addition, research has shown that by enrolling in academic courses in the summer months, “summer slide” is reduced and can help students achieve academically. Students in NCA’s summer school program will be closely monitored by certified teachers and counselors who will provide targeted, supplemental instruction and maintain regular contact to keep them focused on their goal of graduation. Teachers will work to ensure that students complete pre- and post-tests, progress at a pace that enables successful course completion, and participate in daily instructional and intervention activities. Summer school staff are chosen based on their familiarity with effective instructional and motivational strategies. They are focused on student success and already have relationships with many of the students, a foundation on which to build academic success. When students know that there is an adult that cares about their success, then they are more motivated to be successful.³

The NCA Board is committed to a successful summer school program and efforts were underway earlier this year to leverage the GradPoint and Connections program during the summer months. The NCA Board has dedicated \$68,000 to implementing a summer school program for the summer of 2016 for coursework. In addition, the NCA Board has dedicated staff to support this initiative including supervision and instruction by certified teachers, administrators, and counselors.

Every student in the 2015-16 cohort who does not graduate in June will be encouraged and provided support to continue their school year into the summer, whether it is realistic for them to graduate by the end of summer or not. Summer school plans were underway earlier this year, finalized and approved by the NCA Board on April 12, 2016. It is anticipated that 150 students will be enrolled in the summer of 2016. The number of anticipated enrollments includes students from Group 2, Group 3, and future cohorts who will benefit from a summer program to put them back on track to graduate with their cohort. Students who are credit deficient will take GradPoint courses. Students in Group 2, as described in Section 2.1 of this plan, who complete their summer courses will most likely graduate with their cohort.

It is important to note that not only are we taking care of the current cohort, we are looking into the future and having future cohorts take classes as well to stay on cohort or “catch up” if they’re currently off-track. Summer courses will be offered to students who are behind in their freshman, sophomore, or junior years. This will significantly help accelerate those students in ensuring their on-track graduation plans.

Based upon an analysis of the 2015 non-graduates, we anticipate that the courses most likely to be taken by students for the summer of 2016 will be English, U.S. Government, and Math (specifically Geometry). These three areas were the biggest barriers to graduation and are listed in rank order.

³ Hattie, J. (2009). *Visible Learning: A Synthesis of over 800 Meta-Analyses Relating to Achievement*. Routledge: New York, p. 72.

2.4 Earlier and Increased Intervention

NCA has implemented a systematic Response to Intervention (RTI) program to ensure all students are receiving timely and effective instructional support and that their performance is being actively monitored. As noted by RTI Action Network: A Program of the National Center for Learning Disabilities, RTI is the practice of providing quality instruction and intervention and using student learning in response to that instruction to make instructional and important educational decisions (Batsche et al., 2005)⁴. Research and reviews of the effectiveness of RTI found that it is an effective practice for both systemic (e.g., reductions in special education referrals) and student (e.g., increased reading scores) outcomes⁵.

At NCA, students who struggle with the core Math and English Language Arts curriculum are assigned appropriate instructional interventions targeted to their greatest area of need. Efforts were increased during the 2015-16 school year and are tracked on a weekly basis to ensure adequate support and monitoring is taking place. Many students require behavioral interventions to help motivate them to engage in their coursework. Part of the intervention process involves careful examination of a student's academic and behavioral record and identifying potential factors inhibiting their academic progress and perhaps influencing their decision to exit their last school. A slightly credit deficient student (or one who is on cohort) who shows weakness in math with no other risk factors will not begin with the same behavioral treatment plan that a severely credit deficient student with multiple academic or social/emotional risk factors will.

NCA has a variety of instructional resources to address academic intervention needs and uses synchronous sessions (both individual and small group) to address behavioral, social-emotional, and motivational concerns. Resources are easily accessible to students and individual plans based on student needs are created and monitored. Grade level Professional Learning Communities of teachers meet weekly and electronically communicate about student progress on a daily basis. The Student Support Team is also included when escalation is needed. Currently, approximately 70 high school students are receiving interventions in English Language Arts and 120 are receiving interventions in Math. These students require additional support and resources (described in the following sections) to ensure that they are successful in their online courses and are on-track for graduation. It is important to note that this is a fluid process as students receive interventions at the various tiers and may fluctuate between these interventions and in the regular program, depending upon their academic performance and individual student learning need.

Response to Intervention (RTI)

With this multi-tiered approach to curriculum and instruction, which ensures individual students receive the support they need, data is used throughout the school year to implement, for all students, a Response to Intervention (RTI) model. Students who may not be successful in the standard program, Tier I, receive additional support via the supplemental and alternative programs in Tier II and Tier III as detailed in the following pages.

⁴ Batsche, G., Elliott, J., Graden, J. L., Grimes, J., Kovaleski, J. F., Prasse, D., et al. (2005). *Response to intervention policy considerations and implementation*. Reston, VA: National Association of State Directors of Special Education.

⁵ Burns, M. K., Appleton, J. J., & Stehouwer, J. D. (2005). Meta-analysis of response-to-intervention research: Examining field-based and research-implemented models. *Journal of Psychoeducational Assessment*, 23, 381–394.

Students' responses to interventions are monitored, and adjustments to the type and intensity of support are made as needed. RTI efforts were increased during the 2015-16 school year to more quickly identify students who are struggling. The school began to utilize weekly PLC and Student Support Team meetings to look at student performance and behavioral data, and make programming decisions to support students who are struggling academically or are otherwise challenged. The individualized nature of NCA's program lends itself well to RTI. Through real time progress indicators, additional supports and interventions ranging from supplemental programming to targeted, synchronous instruction and even targeted counseling are assigned and monitored. Regular discussion of student progress is held between content area and specialized instructional staff, advisors, counselors, and administration. Modifications to programs are made and can be implemented quickly.

For example, NCA uses the Assessment Objective Performance Reports (AOPR), which helps teachers easily identify essential skills and standards by subject/grade level; identify how and where these essential skills and standards are assessed within the program; access and analyze real-time data to determine mastery/proficiency; incorporate data-driven decisions throughout instruction; maximize use of the instructional support programs, resources, and data; identify the need for tiered interventions for non-mastered/proficient skills and standards; and identify students' responses to the implemented interventions.

This process is further facilitated by other data from Connexus to help identify students' instructional needs that may require intervention. A teacher's Home Page shows an icon for each student indicating that interventions are needed and have been identified and provided. The teacher can use his or her professional judgment to override these indicators and log the decision and rationale within Connexus. Also, NCA has a Student Support Team (SST) and an on-going process of identifying student intervention needs; assigning those interventions; tracking their success; and escalating, if necessary, from Tier I to Tier II to ultimately Tier III (alternative placement, most of which involves the development of an IEP). Tier III interventions are provided concurrently with a special education evaluation. Data is collected as a part of the RTI process. NCA believes that the intensive focus on these Tier interventions for the 2015-16 school year will increase the graduation rate by providing students the one-on-one support that they need to be successful.

Tier I

Tier I is the first level of a multi-tiered approach to a system of instructional and behavioral supports. Tier I includes Connections' research-based core reading and math curriculum aligned with the Nevada Academic Content Standards. In addition to core coursework, the core curriculum includes teachers' use of differentiated instruction that meets the needs of all students throughout the school year. Differentiation involves thoughtful planning for the following: instructional design used to deliver content to students; lesson content used to support and extend concepts and skills; instructional practice used to provide targeted instruction and actively engage students; assessment used to evaluate student learning; and instructional activities to meet the needs of individual and small groups of students. When Tier I differentiation strategies fail to produce adequate progress, Tier II intervention is considered.

Tier II

Areas where more students struggle and require Tier II support typically include reading fluency, reading comprehension, math fluency, math computation and reasoning, and behavior. Decisions to place students into Tier II are based on formal and informal assessment data, academic progress, and behavioral observations (attendance at live lessons, work completion, etc.) The scope of Tier II interventions has been increased during the 2015-2016 school year to include a greater focus on targeted, synchronous instruction, and providing additional support to students whose behavioral concerns are impeding academic progress. Tier II increases the frequency of the interventions. NCA has implemented a Tier II instructional support program for these students and provides support two to three times a week for 20–30 minutes per session at a minimum. Tier II intervention is explicit, systematic, and targeted to the greatest area of student learning and behavioral needs. Supplemental programs provide teachers with reports for progress monitoring that can be uploaded to Connexus to ensure all student performance data is in one place.

Tier III

NCA has implemented a Tier III intervention where students receive targeted instruction for 20–30 minutes four to five days a week in order to focus more intensively on skill deficits and areas of concern. Tier III includes the most intensive and frequent level of instructional support and is the next step in the multitiered approach for students who have not been successful in the previous interventions. Tier III interventions use direct instruction through the use of LiveLesson sessions and implements other instructional strategies and research-based programs that are explicit, systematic, and targeted to specific student learning needs. Much like the decision to place a student into Tier II, academic progress, assessment data, and behavioral observations which indicate a greater need for intervention guide the placement into Tier III. This is the most intensive level of intervention.

Mentoring Program

NCA also piloted a mentoring program in the 2015-16 school year based on John Hattie's analysis of the impact of student-teacher relationships on student performance. As Hattie identified in *Visible Learning: A Synthesis of over 800 Meta-Analyses Relating to Achievement*, there is a strong correlation between teacher-student relationships and student learning⁶. As a pilot effort, NCA students who had two or more failing grades were assigned 1:1 adult mentors, drawn from NCA faculty and staff. Of those in the pilot, 75% are now passing all of their courses. While the development of a relationship with a caring adult is not the only factor contributing to these students' success, NCA is pleased with the results and will be expanding it to include students with the most profound academic and social emotional needs.

⁶ Hattie, J. (2009). *Visible Learning: A Synthesis of over 800 Meta-Analyses Relating to Achievement*. Routledge: New York, p. 72.

2.5 2015-16 Curricular, Education Management System, and Actionable Feedback Revisions

The 2015-16 school year saw significant revisions in the Connections curriculum and in Connexus®, the school's Education Management System (EMS), to address student tracking, feedback, and curricular needs for credit deficient students.

- **Tracking Credit Accumulation:** Connections recognizes the importance of early identification of credit deficient students. There are fields in Connexus that help NCA staff to identify, track, and intervene with students behind in high school credits. In addition, a new field was added for the 2015-16 school year to the Credits and Final Grade Report Data View (example provided in Figure 1) to assist schools in identifying credit deficient students during the enrollment process. As a result, this data is now readily available to NCA counselors as they assign students their courses in Connexus, and also enables counselors to quickly identify credit deficient students so teachers can quickly design interventions. Interventions may include credit recovery courses, block scheduling of classes, additional support by teachers, and/or summer school planning.

Figure 1. Credits and Final Grade Report Data View

The screenshot shows a form with the following fields and values:

- Final Grade 2015-2016: 11
- Current grade Level: 11
- Grade Level based on credits earned: 11
- On track to graduate based on completed credits and cohort year?: Graduate On Time
- On track to graduate based on potential credits earned at end of year?: Graduate On Time
- Cohort Grade: 11
- Cohort Graduation Year: 2017
- Is the student credit deficient based on documentation received prior to enrollment? Yes No
- If yes, in what area(s) is the student credit deficient? Electives English

- **Math Focus:** Math can be a significant barrier for credit deficient students. In the 2015-16 school year, Connections released significant changes in the area of math. All Kindergarten through Algebra 2 math courses were enhanced for 2015–16 to reflect the targeted learning sciences principles of practice, feedback, and student engagement, as well as the analysis of Connections math performance improvement research and data analytics.

These enhancements included the following:

- Reflections engage students in assessing their comfort level with specific skills, rating their math confidence, and reflecting on their math practices and study skills.
- Updated project based portfolio assessments are aligned to math practices and provide hands-on learning opportunities that include flexibility and choice, real-world challenges, collaboration, and application of knowledge in authentic ways.
- Enhanced practice includes instructional support, refined assignments that target skills needing additional support for mastery, and encourage metacognitive questioning and engagement with next generation assessment type activities.

- **Actionable Feedback:** Teacher feedback is one of the most powerful influences on student learning and achievement (Hattie and Timperley, 2007).⁷ However, as noted by Hattie and Timperley, the type of feedback and the way it is given can be differentially effective. Guided by these research findings, during the 2015-16 school year, NCA teachers increased their efforts to provide high quality, timely, and actionable feedback. The new process ensures that teachers provide this feedback and that students and Learning Coaches are aware of the feedback. At the start of the school year, students and Learning Coaches began receiving automatic WebMail notifications that feedback was provided by the teacher, indicating the specific assignments and assessments that contain the feedback. Through a technology-powered feedback loop in Connexus, students receive consistent, timely, tangible, and actionable feedback to guide and impact their learning. In a Connections Education survey conducted in March 2016 of student and Learning Coach response to the new feedback notification system, results indicated the following:
 - **98% indicated that they have received feedback notification messages**
 - **97% indicated that they found feedback notification helpful in keeping them informed about their student’s learning (82% very helpful; 15% somewhat helpful)**
 - **92% indicated that the feedback notification was helpful in keeping their student informed about their learning.**

It is expected that both the math enhancements and the actionable feedback will improve student engagement in their courses and increase the percentage of courses that students complete successfully resulting in increased credits earned and a reduction in the number of credit deficient students, as well as the severity of students’ deficiencies. In the first semester, the improvements are believed to have contributed to the 3% point improvement in successful high school Math course completion rates across Connections-supported schools.

Continued research and formative and summative data analysis will occur at the conclusion of the 2015-2016 school year and into the 2016-2017 school year to confirm these assertions and inform instructional and operational practices at NCA. We do anticipate that these curricular and technological revisions implemented in 2015-16 will make a positive difference in the second semester course completion rates and in NCA’s graduation rate.

2.6 2015-16 Professional Development

NCA has also focused its professional development efforts in 2015-16 on engaging faculty in discussions directly related to the learning science principles and ensuring student success. Our efforts include training on student engagement and mindset as part of a targeted focus on school culture and student perceptions related to learning. A learning environment that promotes student engagement is characterized by connectedness between students, their teachers, and the school community, as well as a growth mindset, personalization, relevance, and the provision of a physically and psychologically safe environment.

⁷ Hattie and Timperley, (2007). **The Power of Feedback:** Review of Educational Research. March: 77: 81-112

The professional development for 2015-16 focuses on student engagement. An engaged student is invested in his or her learning and—as a result—has a growth mindset, perseverance, and relations that support academic success. It's about seeing things in a new way. When people change to a growth mindset, they change from a judge-and-be-judged framework to a learn-and-help-learn framework. Their commitment is to grow, and growth takes time, effort, and mutual support. Focusing professional development efforts on student engagement, mindset, and culture will make a difference for credit deficient students who have had many years of failure in their previous educational environment.

Teacher professional development is critically important in ensuring that the staff is optimally effective at teaching in a virtual environment and addressing the Nevada Academic Content Standards in their daily instructional practice. Each teacher maintains an ePortfolio in Connexus that includes the dates they attended professional learning sessions and their reflection on the session. Professional Learning sessions delivered by the Connections Professional Development Team include a post-session activity that teachers complete and upload to their ePortfolio. This application activity requires teachers to describe how they will apply the information learned during the session to their work with students and to improve their instructional practices. The NCA school leadership team can access a teacher's ePortfolio, review what was submitted as evidence of their learning, and provide teachers with feedback. The review of teacher artifacts and reflective comments have shown an increase in understanding of key concepts such as "knowing your students". This is supported by observed teacher instructional activities within synchronous instructional sessions and a focus on off-track students.

The *Core Standards for Facilitating Student Learning* are:

- Provide high quality instruction resulting in student learning,
- Personalize student programs,
- Monitor student performance and provide timely feedback and intervention,
- Monitor student participation,
- Communicate frequently,
- Document and review all interactions, and
- Collaborate and develop professionally.

NCA works with the Connections Professional Development team to coordinate, plan, deliver, and continuously support Professional Learning Community activities and other professional learning initiatives through a systematic and comprehensive multi-year professional development plan that is focused on NCA's needs.

Figure 2 lists the professional development programs and initiatives that NCA targeted during the 2015-16 school year that were directly aligned with its goals of increasing student success and graduation rate.

Figure 2. Professional Development Topics in 2015-16

Topic
<ul style="list-style-type: none">• Students in Distress• Serving Special Education Students Online• Monitoring students with attendance, participation, and contacts• Response to Intervention: Using Intervention Indicators to review, identify, and implement interventions• Assessment Objective Performance Report (AOPR) – real-time data showing student mastery of essential skills and standards• Differentiating learning using resources from the Instructional Support database and Shared Content• Analyzing and making instructional decisions for personalizing instruction• Planning targeted instruction for groups of students• Assessing mastery and providing opportunities for practice• Motivating students to participate• Encouraging Learning Coach training and participation• Reviewing best practices for intervening with students in Approaching Alarm or Alarm status• Helping Students Develop Grit and Take Ownership of Their Learning• Practice > Mastery > Transfer – What Does It Mean?• Feedback vs. Feedforward Roundtable

2.7 2015-16 Learning Coach Support

In addition to this increased focus on student engagement, NCA has recognized the need to provide increased support to Learning Coaches and to help increase their engagement and connectedness with other Learning Coaches.

New resources were provided in the 2015-16 school year to assist Learning Coaches in ensuring student success. As part of a commitment to the entire family and subsequent research, a three-part family support program was created to make the learning experience more engaging and rewarding for students, parents, and Learning Coaches. These Learning Coach Live Lesson sessions are announced in the Learning Coach Link, on Learning Coach Central, in the Monthly Newsletter, and on the Learning Coach Home Pages. The three-part family support program is described in the below sections: Get Started!, Get Coaching!, and Get Connected!

Additionally, NCA uses Facebook social media channels to connect with enrolled and interested families. Facebook is used to support a positive school community and may serve as an alternate, casual, method of communication. There are currently 2,264 people following the NCA Facebook page. The page sees interaction such as: 9 average fan likes per post, 11 average fan actions per post, and 769,962 potential friend impressions. Parents can also join the school’s closed Facebook groups, in Northern and Southern Nevada, to reach out to other families. As of April 2016, more than 200 Nevada families were counted as members.

Club ORANGE is a social club for parents of enrolled students and it provides another online “space” where families can connect. This is not a formal method of communication, but rather an opt-in group for parents to meet their peers and interact. Current membership in the Nevada Club ORANGE community is 172 families (up from 28 families when the club was first established in 2011).

Get Started!

Our **Get Started!** program offers both assistance and reassurance by providing extensive information about online education. The program helps families prepare for a successful school year through the Prepare for Success website, teacher welcome calls, orientation courses for Learning Coaches, in-person orientation gatherings, and Learning Coach Success Series, a series of live webinar-style sessions that start before the beginning of each school year, and are led by currently-enrolled parents who help families prepare for their first days of school. In addition to open Q&A sessions each week, five different topics are addressed: Virtual School Basics, Roles and What to Expect, Schedules and Routines, Getting Acquainted with Connexus, and Tips and Tricks for Success. The website is provided at: <http://www.connectionsacademy.com/learn-more/events/online-orientation>

Get Coaching!

The **Get Coaching!** program is dedicated to helping Learning Coaches understand their role, providing them with easy access to resources, and ensuring that they are equipped with the tools and strategies needed to motivate and assist their students. Also, Connections provides additional training and support for parents.

Learning Coaches will complete an online orientation designed to familiarize them with the important role they play in supporting their student as a learner. We also support Learning Coaches through:

- **Learning Coach Central** – A convenient one-stop-shop site with access to social networking opportunities, information, and multiple resources to assist Learning Coaches in their role and providing instructional support to their student.
- **Learning Coach Link** – An online monthly communication sent to Learning Coaches with articles on instructional best practices and topics relevant to their families, Connexus updates, tips and strategies supporting students, announcements and reminders. NCA reaches out to Learning Coaches through increased social media, increased communication via message boards, and student outreach activities at school events to share this information.
- **National Learning Coach Resource Sessions** – These online, LiveLesson sessions are designed to assist Learning Coaches with an understanding of their role and responsibilities, and provide strategies for working with and supporting their student. All Learning Coach sessions are recorded and available in the Virtual Library for Learning Coaches to view if they are not able to attend the session live. They are announced on LC Link, LC Central, and LC Home Pages. Topics of specific interest are also shared via direct communication to families from counselors and advisors.

A wide range of topics are offered. Examples of sessions that support Learning Coaches of high school students include:

- College Applications and Your Student: What to Expect and How to Help!
- Understanding Financial Aid and the Importance of Completing the FAFSA
- How You Can Help Your Student Become College and Career Ready!
- Embracing Struggle through a Growth Mindset
- The Adolescent Brain
- Nurturing Student Motivation

Get Connected!

The **Get Connected!** program was developed to assist students and parents who are interested in finding opportunities to connect with other school families. In addition to in-person field trips and online clubs and activities, this program offers socialization tips for online school families, increased opportunities for students to interact online with classmates and teachers, and in some areas, private Facebook groups where parents and Learning Coaches can “meet” to arrange study groups and other informal gatherings.

3. 2016-17 School Improvement Plan

The plan for the 2016-17 school year will be based upon the changes implemented during the 2015-16 school year with increased efforts on the areas of improved graduation rate and academic success, and the results of these efforts. In addition, the following additional improvements will be implemented.

3.1 Internal & External Data Validation

Internal Data Validation Efforts

The school registrar, reporting coordinator, and administrative assistants will maintain accurate and complete records in Connexus and physical files of withdrawn high school students concerning information on their next school of attendance or other educational decision. The school has already taken a more pro-active approach to identifying challenging placements and will continue to dedicate the resources to doing so. NCA is taking an additional step to locate students who withdraw (formally or informally) and, therefore, can potentially negatively impact the school’s current and future four-year cohort rate. At the Authority Executive Director’s suggestion, the school will consider working with an independent, external contractor to attempt to confirm the subsequent educational settings in which students enrolled after withdrawing from NCA. Currently, there are over 200 students who have withdrawn from NCA sometime in the past four years that are not confirmed to have transferred to another public school, private school, or home school. We will actively target this group and focus efforts on locating their current school.

The school will also increase its scrutiny of students enrolled in the school who are truant and those who withdraw or stop attending without providing required evidence that they have withdrawn to another program. Specifically, Nevada provides schools with an avenue to penalize students for habitual truancy—either in the form of written citation issued to the habitually truant student, or suspension of the habitually truant student’s driver’s license. This administrative sanction is pursuant to NEV. REV. STAT. ANN. § 392.148 (2016). This has not been used in the past but plans are in place for the 2016-17 school year. Parents will be clearly notified upon enrollment that this will be pursued if students are habitually truant. This is a mechanism for keeping students engaged and for providing proper incentive to students not remaining engaged to promptly share with the school to what high school program they are transferring. This would minimize “lost” students being counted as dropouts; given the proper information, they could be counted as transfers out, therefore raising NCA’s graduation rate.

As referenced, the school will also carefully review all records to ensure, for example, that any student who qualified for a certificate of attendance or who transferred to an adult education program was not incorrectly coded as a dropout (pursuant to NEV. ADMIN. CODE § 389.699(3) (2015) – and to ensure the same for transfers out-of-state, to private schools, to homeschooling, etc. Data is provided in Appendix B.

Notification will be provided to families and parents when they enroll that this process will be followed – it will be on everyone’s home pages – so that they are fully informed on the consequences of not filling out the withdrawal form.

External Data Validation Efforts

NCA will conduct an external validation study for the Class of 2017 as it did for the Class of 2015 and the Class of 2016 if the Authority finds it necessary. If it does, NCA will pursue the same process for identifying and working with a third party.

3.2 Freshman Focus/Senior Success

The use of a freshman specific initiative was piloted in other schools supported by Connections during the 2015-16 school year and resulted in a positive difference in 9th grade promotion rates between schools. As a result, Connections is building a universal course entitled Freshman Focus for the 2016-17 school year which will be implemented at NCA. The new freshman focus course will orient students to resources available to them, introduce strategies for success in high school course-level work, emphasize the importance of academic integrity and producing authentic work, and build college and career readiness.

Based on the initial positive results of the Freshman Focus Course, a course that addresses needs specific to seniors, Senior Success, will also be offered as a formal part of the program beginning in 2016-17. The NCA Board and school leadership team are very excited about the Freshman Focus course, and the upcoming Senior Success course, and anticipate that both of these approaches will help many students achieve success and graduate on-time.

3.3 Every Student Succeeds Academy Program and Plan

In order to increase the school’s efforts to support off-cohort students, NCA is implementing an academy approach to address the needs of its off-cohort students. Highlights of this mandatory program, to be called the Every Student Succeeds Academy, include:

“Success” seminars for off-cohort students offered synchronously to highlight successful practices, habits, and to help students acclimate to the online environment. Additionally, participation in these sessions upon enrollment will set the foundation to encourage accountability and participation in other required instructional sessions.

- Regularly required attendance at virtual or face-to-face synchronous instructional sessions. The frequency, format, and content will be tailored to student needs and tied to academic outcomes. By requiring attendance, we are still providing the flexibility that a fully virtual model provides while still adding a level of accountability.
- Dedicated instructional, administrative, counseling and advisory staff. Staff that are involved in this program will be selected based on their prior success in engaging with this population and will focus all of their efforts on increasing these students' success under the watch of school administration.
- Lower staff/student ratios. This will further establish accountability, provide support, and ensure that students are in constant contact with the school. As students complete credit recovery courses, it is critical that they are then placed into additional courses to maintain progress towards exiting Group 2 or Group 3 and graduating on time.

To assist the school, an internal Data View field will be added to the Cohort Information Data View and a required timeline. Additionally, the proprietary Connections IssueAware system is used to monitor students, track staff accountability, and document progress. **For 100% of students who have a current final grade of 11th or 12th and are off-cohort (student does not have adequate credits to be in the grade they should be), NCA will outline a plan in their Cohort Information Data View that details efforts to rejoin their correct grade level or graduate on time within the first 45 of days of school or 30 days of enrollment for late enrollees. Overall progress will be tracked through a calculated field in Connexus that monitors whether a student is currently predicted to graduate on time, and students who are "off cohort" will have progress in their courses and other programming tracked weekly.** Another benefit of NCA's program is the ability to adapt programming quickly to match student needs and modifications to programming, supports, and interventions will be made as needed.

3.4 Curricular Changes

GradPoint

Based upon the success of the GradPoint Pilot in 2015-16, it will be expanded and all credit deficient students will be placed into the appropriate courses to recover needed credits and to move closer to an on-time graduation. The targeted, user-centered approach of GradPoint is especially beneficial for transient populations—many of whom have been out of school, are disengaged, and have been unsuccessful in their first attempt at assigned coursework.

Additional Math Instructional Resources

An additional resource in Math has been added into the intervention resource library for 2016-17. Think Through Math helps students develop higher order thinking and problem-solving skills, preparing them for success on state exams, as well as a smooth transition to college or a career. Think Through Math includes instructional support for students in Algebra I, Geometry, and Algebra II, along with foundational math skills, and allows teachers to create customized learning pathways for students based on their individual needs. This additional resource helps motivate students using contests, points, avatars, and games. A pilot was held in other schools supported by Connections and results were very positive and it is expected to result in similar positive outcomes for NCA in 2016-17.

Automatic Feedback

The 2016 plan is to build on the success of the Automatic Feedback feature that was new in 2015. NCA is committed to ensuring that parents and students are fully informed of this feature and how to employ it for student success in the 2016-17 school year by including in webmail messages, welcome calls, and training to parents. This new feature provided an automatic alert that went to both students and Learning Coaches when a teacher left feedback for a student. To support this increased visibility of feedback, teachers ensure that feedback on student work is targeted, meaningful, and includes suggestions for improvement. Teachers received specific training on providing effective, actionable feedback to students (ex. Session 103: Why Do Students Need Feedback?; Session 205: Feedback vs. Feedforward Round Table; and Session 302: The Power of Feedback). A recent survey of Learning Coaches indicated that 97% of Learning Coaches found the notifications helpful in keeping them informed of their student's learning. For example, parents stated that:

- "The feedback helps my student immediately know what he needs to improve on and if he has time to correct his mistakes on assignments. It also gives a confidence boost on a job well done."
- "We really appreciate the feedback notifications! There were times where my daughter wouldn't see her teacher's feedback requesting correction via webmail for quite some time, but now with the notification, she gets the feedback right away! Very useful upgrade. Thanks!"
- "I just want to take a moment to thank you. Your positive feedback on assessments and (our school's) multiple choice reflections really have made a difference for my child this year. He was having trouble with math last year. I am so thankful for (our school) in general, because it has helped my child take his time and become more confident in his abilities."

Increased Math Focus

Math is a continued focus at Connections. Targeted activities and discussions will focus on Math in student's day-to-day lives and a growth mindset toward Math, including increased Math awareness in the Connections Speaker Series, Fireside Chats, and Student Clubs and Activities experiences. New student experience opportunities included RobotC, in which students are able to program Lego® Mindstorms® robots virtually, and the James Webb Space Telescope Project, which provided students the opportunity to collaborate virtually and create a project which demonstrates understanding and information about the James Webb Space Telescope.

There are additional Math dedicated resources for Learning Coaches including resource sessions such as Born to Learn – Embracing Struggle through a Growth Mindset and What Was Broken with Math and Why Did They Need to Change It?; Learning Coach Link newsletter articles including math tips and guides; an article on math reflections; and a Learning Coach book study on the book Old Dogs, New Math by Rob Eastaway and Mike Askew.

Course and Connexus Enhancements 2016–17

The curriculum offered to NCA students is updated and enhanced annually. In addition to the updates made to address Math performance, accessibility, and feedback and course ratings received through the StarTrack lesson rating and feedback system, course enhancements are also focused on school-based requests for course unit reranking. Unit reranking requests are in response to a school's review of the content and sequence of a course. While the content is appropriately aligned to state standards, the sequence of the units may be better aligned to the school's school year and timing of state assessments. The enhancements for 2016-2017 include the following:

- **Unit Reranking** – Throughout all Connections schools there were 106 school-based requests for unit reranking to optimize alignment of course content and instruction order and pacing to the requirements of state testing. NCA requested four additional reranked courses for 2016-17 and will then have a total of 14 reranked courses in the 2016-17 course catalog. A course that has units reranked enables NCA to cover critical content before state testing dates.
- **Interventions from Prior Year** – Beginning with 2016-2017 school year, teachers will have immediate access to returning student data that indicates whether they were receiving intervention support during the prior school year. This access to historical tier code data, within Connexus, will allow teachers to quickly identify an appropriate intervention for students and provide the student with the type of targeted support that he/she needs at the start of the school year.
- **Math Performance** – Course enhancements focused on Math discourse and students' oral and written communication of math thinking, reasoning, and problem solving. These efforts will be evidenced in the reflection, discussion, and portfolio activities, and in the new Time to Talk lesson component.
- **Accessibility** – Enhancement efforts continue to focus on replacing or enhancing legacy content and instructional resources to meet the Web Content Accessibility Guidelines (WCAG) 2.0 standards. This work is primarily focused at the middle and high school level for 2016–17.

All of these curricular changes are focused on improving student learning, retention, and graduation rates. These curricular changes are based upon research and efforts from the 2015-16 school year and will make a measurable difference in learning in 2016-17.

3.5 Professional Development

NCA is in the midst of defining its 2016-17 Training and Professional Development Plan, which will be as substantive and robust as the 2015-16 one described previously. An additional focus on standardizing teacher course expectations and grading practices, as well as implementing "relearning" policies to support student academic engagement and success, will be implemented through the training, professional learning sessions, and related Professional Learning Community work. It will also focus on ensuring the success of the Every Student Succeeds Academy designed for off-cohort students and a school-wide focus on graduation rate and tracking students.

Professional learning sessions facilitated by the Connections Professional Development team during the 2016-2017 school year will focus on specific learning themes throughout the year. Whether teachers are participating in the 100 (1st year teachers), 200 (2nd year teachers), or 300 (3+ year teachers) series, the theme will be the same, while the session objectives will increase in level of rigor and application based on teacher experiences. Themes, based on learning science research, include: student reflection, making connections, ownership of learning, effective questioning, feedback, practice/reteaching, and improving student outcomes. This thematic approach will allow all teachers to focus, and build on, the same topics throughout the year and enable PLCs to delve deeper into how learnings from professional development sessions impact teaching practices and student learning.

In addition to the Professional Learning sessions described above, NCA school leadership can recommend or require teachers to participate in any of over 20 additional nationally facilitated professional development sessions that support NCA school goals and/or teacher development goals. School leadership monitors participation and portfolio completion at least monthly, and provides feedback on teacher artifacts. Additionally, observation of teacher instruction includes “look-fors” derived from topics covered within PD. NCA will ensure that active participation in internal professional development is carefully monitored and that topics are reinforced through regular inclusion in PLC meetings and staff meetings, and the rates of participation in professional development will increase from 2015-16 to 2016-17. Additional resources which specifically target working with this population have been identified and will also be included.

Teachers at NCA had the following to say about their experiences participating in professional learning sessions during the 2015-2016 school year, and how the session will help them to improve their instructional practices.

- *I found it extremely helpful to learn about all the different risk factors and to learn how easy they are to locate. I will definitely be taking note of these moving forward when interacting with my students.*
- *In this PD session, we learned about ways to increase the effectiveness of instructional practices. We learned about Gagne's 9 events of instructions and how to implement them in our virtual environment. I learned some new strategies and ways to really engage students in the LL room by using attention grabbing questions, recall, practice, feedback, and retention just to name a few. Using tools like the poll pods, screen shares, breakout rooms, and exit strategy ideas can help assist in pulling students into the instruction and helping them to become more active learners.*
- *I like this idea of grit and teaching students to appreciate improvement in their work when they have taken risks and maybe failed, but then got up and tried again. I can model that myself as I am in my second year teaching in an online environment. Even though there is still a lot I don't know, I have made tremendous progress since last year with the technology.*
- *I really want to focus on self-reflection of my own teaching practices and find my strengths and weaknesses. This will help me to improve as a teacher and also help my students with their own self-reflection process.*
- *I think this session was a good reminder for me that my high-end students need better feedback than what I am providing them. I do a good job of providing detailed feedback for my struggling-learners, but I think I rely on praise too much with the other end of the spectrum. I will spend more time challenging them and encouraging them to go beyond, dig deeper, etc. and provide that in my feedback to them.*

Efforts to assess the impact of professional development efforts are underway. There are several layers of such assessment: Design, Implementation, and Impact. Teacher responses on an annual employee satisfaction survey indicate progress in design and implementation – staff positive responses to 7 professional development related questions increased an average of 3.2% points, and teacher participation in PLCs increased to 100% from 97% last year. Assessment of impact is a work in progress.

3.6 Board Governance Training

The NCA Board is committed to the success of the school. This is demonstrated in their high participation during regular and special Board meetings. The NCA Board meets regularly nine (9) times throughout the school year and calls additional meetings as needed. The Principal reviews performance data and trends with the Board during each meeting, which Board members discuss and make recommendations as appropriate. The Board is focused on strategic planning and increasing the graduation rate at NCA. An external consultant will be engaged to collaboratively work with the Board on strategic planning and implementation for the 2016-2017 school year and subsequent years. The Board will continue to work closely with the Authority to evaluate effectiveness of the improvement strategies and also seek input from external experts in this area.

The NCA Board routinely participates and is committed to Board governance training opportunities throughout the school year, including conferences provided by the National Association of Charter School Authorizers (NACSA), Charter School Association of Nevada (CSAN), National School Boards Association (NSBA), International Association for K-12 Online Learning (iNACOL), National Alliance for Public Charter School (NAPCS) as well as a Board Academy provided by their Education Management Organization (EMO). In addition, materials from previous trainings are made available to all Board members within their online Virtual Library. Also within this Virtual Library, Board members have access to review all governance documents for the school including but not limited to, Bylaws, Charter Agreement and materials from all previous Board meetings. All core foundational documents are reviewed regularly and revised as necessary.

The Board will be actively monitoring the graduation rate and progress and effectiveness of the strategies outlined in this Plan through monthly reports from the school leader detailing the progress made with the strategies outlined in the plan. The Board will be provided detailed updated reports on the cohort to evaluate student growth under this Plan. The Board will continue active involvement in collaborating with the Authority to ensure the Plan is effective or make necessary adjustments as the Board and school leadership work to monitor the success of the strategies outlined.

3.7 Staff and Placement Decisions

The students in the Every Student Succeeds Academy will be taught by a select group of staff who will serve as their teachers and “graduation coaches.” This approach is being piloted now with students in Groups 2 and Group 3 of the current year’s cohort, and it allows teachers the opportunity to work with a small group of students who they “own.” The number of students assigned to each staff member is purposely kept low (less than 10) so the appropriate amount of regular contact and support can be given.

The staff of the Every Student Succeeds Academy (ESSA) will be comprised of teachers who are passionate about and dedicated to working with the population of credit deficient students who often also are also faced with non-academic challenges which further impede their progress towards graduation. By combining high quality, targeted instruction delivered by experienced and caring educators with the appropriate social and emotional supports provided by counselors and advisors, NCA is confident that this will truly be a program in which every student will succeed.

The selection of staff members who understand and embrace the importance of this work is only one step in the overall process. Staff members will be evaluated regularly on outcomes related directly to student success and engagement, and will be held accountable by school administration through the use of tangible, relevant student data. The frequency and quality of contacts with students and the efficacy of instructional practices will be judged on student outcomes.

3.8 Face-to-Face Support

NCA is committed to ensuring that students are successful by creating additional face-to-face opportunities in the 2016-17 school year dedicated to credit-deficient students. Currently, there are field trips and state testing opportunities for face-to-face interaction and many students take advantage of these opportunities. NCA knows that these opportunities provide valuable time for students and teachers to generate a relationship and discussion about coursework and school. It is also an opportunity to develop the success strategies needed to be successful in an online school.

NCA plans to increase these opportunities and pilot an additional series of face-to-face tutoring and intervention opportunities in Clark and Washoe Counties. NCA will use venues already selected for state testing, and will target additional opportunities based on student location, need, and scheduling preferences. Sessions will be focused on targeted academic support. Results will be carefully monitored and if it's determined that these pilots yield significant results, NCA will work to reprioritize its budget to expand this effort in future years with more sessions and a wider geographic reach.

3.9 2016-17 Learning Coach Support

Learning Coach support and training was increased in the 2015-16 school year as outlined previously. However, it is also evident that many of our older high school students have challenging home situations with limited Learning Coach involvement. The school remains committed to increasing Learning Coach involvement through social media, face-to-face events, training, and other individualized supports. In an effort to improve awareness of these sessions to NCA families, including families with limited Learning Coach involvement, NCA is committed to promoting the availability of these support sessions to families for the 2016-17 school year. For example, notifications from the school will be sent by the school leader to invite and encourage participation by families. In addition, the 2016-17 plans include sending the links to recorded sessions to families via the School Counselor or other school leader when it is evident that additional support is needed from a Learning Coach and staff believes that additional training will help increase the expertise of the Learning Coach to more successfully monitor progress and provide support. Counselors also work with Learning Coaches and families to identify and utilize community-based resources to address the many unique situations and challenges presented by this population of students.

4. 2017- 18 and Beyond

Future plans will be developed during the Board's strategic planning session during the summer of 2016 and will be focused on achieving a cohort graduation rate of 60% and ultimately higher. Some ideas under consideration are 1) providing drop-in centers where students who need face-to-face interaction with a teacher in reading or mathematics could receive this support; 2) enhancing curriculum to provide teachers even more flexibility to personalize courses for students; 3) providing specific professional development for teachers and counselors to increase student engagement; and 4) being increasingly persistent with and continuing our deliberate and focused efforts working with credit deficient students.

NCA, in partnership with Connections, has begun the multi-year improvement effort to increase four-year cohort graduation rates, and recognizes that because 9th grade drop-outs have a significant impact on graduation rates four years later, the greatest effect of these multi-year efforts will be seen in the graduation rates for 2020 and beyond. Like the specifics of the plan presented in this document for the coming year, this multi-year improvement effort addresses a number of basic issues, but with steps that take longer to realize.

1. **Onboarding:** Work to ensure that the students who enroll in the high school program fully understand and are prepared to take full advantage of what it offers. The high school program is a rigorous college preparatory program and students often say they initially struggle to rise to the expectations of the curriculum. In addition, full-time online school, while tremendously advantageous for many students trying to adapt their high school experience to their personal needs, does require a level of commitment and discipline to learning a new approach. While NCA is a public school and cannot turn away students who apply, it will continue to make efforts to improve its outreach programs to ensure that students and Learning Coaches are prepared for the rigor and expectations of being a virtual school student.
2. **Connexus®, the Education Management System, Rebuild:** Connexus, the software and technology platform on which the program is served, is in the middle of significant improvement which is expected to be implemented in the 2018-19 school year. It is anticipated the new platform will allow students who are thinking about enrolling to more directly experience the program. We anticipate that students can be offered trial courses that will give them a better sense of what to expect, and perhaps a legislative or regulatory solution can be found to require successful completion of an orientation or trial course as an enrollment prerequisite. See additional policy recommendations in Appendix D.
3. **Support-Engage-Intervene-Escalate:** Work to ensure that students, once enrolled in the high school program, are fully engaged in the program. Students who experience success and gain momentum in their course of study (e.g., completing requirements in a timely and gratifying way) are more likely to engage, succeed, and graduate on time. Conversely, research shows that overage 9th graders, 9th graders who attend more than one school, and/or 9th graders not earning credits on a pace that would lead to on-time graduation are at highest risk for dropping out. NCA will make fuller use of this information and student-specific data related to it to design support, engagement, intervention, and escalation activities. While the school has made and continues to make substantial efforts in this area, future activities may include:
 - a. **More Robust Freshman Academy Approach:** Building on the Freshman Focus effort in 2016-17, efforts will be furthered to organize teachers across disciplines and around students to help ease the transition to high school and develop the behaviors and habits that will help them successfully complete high school.

- b. **More targeted information.** Again, building on 2015-16 and 2016-17 efforts, information made available to teachers and other school staff will be further refined to enhance their efforts to support, engage, intervene, and escalate. The new Connexus will provide additional improvements to the teacher dashboard, including more automated integration of information about student engagement and success with their curricular and instructional resources. Simple things like the system's ability to monitor when the student is typically active in the system and where the student seems to be getting stuck will help teachers better time and frame their efforts to reach out to support and intervene.
 - c. **Social Platform Integration:** Today's students communicate on social media platforms and Connections does not currently offer NCA a robust and secure platform for communicating with students that mimics the style and availability of social platforms. It is anticipated future improvements to Connections' education management system (Connexus) will support better use of such tools, as well as the potential to more easily automate messages that research has shown will help many students engage, such as automated reminders to complete an assignment or messages of encouragement. In an upcoming update to Connexus, Connections is intending to build a chat feature to enable students to collaborate with each other more organically. The updates will include blogs and wikis that students can create and write. Also, the updated system will allow for project based learning, which allows students and teachers to work collaboratively. Badges can be awarded for progress in the system by their teacher

NCA's Connexus Education Management System provides an internal "closed" email system for students, parents and teachers to connect. The school community also leverages message boards to interact. Although this is not "social media" it does offer a closed online environment for communication. Future versions of Connexus are expected to include chat functionality in addition to email and message boards. Other enhancements to Connexus will be announced.
 - d. **Integration of Additional and External Supports:** Many students have non-academic challenges that interfere with their ability to be successful. It takes time to identify and make available physical-world supports for students and/or to build partnerships with programs that might help them be better prepared to be successful in school. NCA is piloting some efforts in 2016-17, and the results will inform its exploration of a range of options for future school years, including mandating face-to-face instructional time for particular behavioral or academic issues that have been shown to respond to that intervention, as well as deeper partnerships with social welfare related agencies to help students address family situations, chemical addiction, mental health concerns, and other issues that might be interfering with their ability to be successful in school.
4. **Increase Curricular and Instructional Offerings:** Continue to work to strengthen and broaden the curricular and instructional offerings of the high school program to better address the academic and non-academic needs and interests of its students. On a continuing basis, NCA will evaluate the effectiveness of its strategies identified to increase the graduation rate and adjust those strategies in collaboration with the Authority.

- a. While NCA continues to strengthen and increase the breadth and quality of its program (Career and Technical Education and GradPoint credit recovery offerings being recent examples), there is more to do. CTE courses that are offered are based on student interest and demand, and include courses that focus on the following general career areas: health and medicine, general business, and computer programming. Connections will continue to work to find and/or develop the best curricular resources to address the needs of students, and to improve the level of student engagement and the quality of accessibility and various pathways to success that are built into its existing curricular resources. This is a multi-year effort spanning hundreds of course offerings, but it is expected that the roll-out of the new Connexus platform in the 2018-19 school year will significantly accelerate the benefits to students and their learning.
 - b. While training, professional development, and teacher participation in Professional Learning Communities (PLCs) have been underway for some time, the development of teacher beliefs and practices takes time. NCA will continue to develop and refine shared practices for basic practices like student grading to maximize academic integrity without unwittingly alienating or disengaging students. Experience in other schools supported by Connections has shown that full implementation of a relearning policy takes several years but can substantially improve the rate of successful course completion by students without undermining academic integrity.
5. **Increased Data Integrity:** Work to strengthen NCA's ability to track and properly record where students withdraw to when they leave without graduating. As previously noted, the ability of students to quickly and easily access NCA when they have a problem to solve (e.g., enroll because of an insurmountable transportation problem) also makes it easy for students to leave easily and without adequate notice. One student counted as a dropout in 2015 had been enrolled in the school for two weeks several years earlier, and was counted as a dropout largely because the school could not find out where the student went and report that back to Nevada. Similarly, 14 students who dropped out in 2015 were reported by the National Student Clearinghouse to be enrolled in two- or four-year colleges or universities in the fall of 2015. NCA and its board will continue to strengthen their database management to track withdrawals, and its ability to research the whereabouts of students who withdraw and do not adequately report their next steps. NCA will also work with regulators to try and strengthen definitions and technical capabilities around the effort to help ensure, for example, that students enrolled in a legitimate Adult Education option are not counted as non-graduates as they currently are, and that NCA has sufficient access to the data sources maintained by Nevada to "look for" students who have withdrawn without fully reporting their next steps.

5. Conclusion

A school's graduation rate is one of many important school performance measures. NCA wants every student who enrolls to graduate with a Nevada high school diploma. The NCA Board and school leadership team recognize that NCA's four-year graduation rate, using the federal cohort methodology, is not at the desired level. NCA is effectively serving a significant population of credit deficient students and understands that under the current method of calculation this has an adverse effect on its graduation rate, reflecting on the students' experience before enrolling in NCA. NCA is committed to re-engaging these students and graduating them career and college ready. We want higher achievement and as can be seen in the steps outlined in this plan are committed to making it a reality. There is some context around the graduation rate that we have explained in this plan that will also be backed up through the third party validation process. Ultimately, we recognize the concern about the current graduation rate and are working to improve it. Like any organization with a plan for improvement, we need time to faithfully implement improvements, evaluate their efficacy, address any implementation concerns, and address any unintended consequences. We are confident that students will be served well and the graduation rate will improve through an open and collaborative dialogue with the school and the Authority. We also are confident that the many factors that impact graduation will become apparent through this process.

Appendix A

History and Accomplishments

A.1 Overview

There are many areas in which Nevada Connections Academy (NCA) has made great gains. This section will highlight these achievements.

Students benefit from a top-quality curriculum that meets all Nevada Academic Content Standards (Common Core State Standards). Each student has a Personalized Learning Plan and one or more highly qualified Nevada-credentialed teachers working with expert curriculum specialists to tailor the curriculum to meet that student's individual learning needs.

NCA is a virtual learning community that connects students, teachers, and families through unique technology tools as well as synchronous instruction and one-on-one interaction. Students and their families receive sophisticated support for their curriculum, technology, special education, and digital learning platform needs. Students and families use an educational management system that combines learning management, student information, and content management systems. This allows students and families to maintain a focus on achievement.

As a result of its effective and innovative educational approach, NCA is accredited by the Northwest Accreditation Commission (NWAC), an accrediting division of AdvancED.

One of the most significant benefits the school provides is being able to serve students who are underserved or not being served within the larger community. Students benefit from instruction that is individualized, personalized, and flexible. NCA is tailor-made for a diverse array of students who benefit from a quality alternative to the traditional brick-and-mortar classroom. These include:

- Students whose families seek direct involvement in their education,
- Students who are medically homebound due to illness or disability,
- Exceptional students who are far ahead of or far behind their peers in school,
- Students pursuing artistic or athletic careers,
- Students who require a flexible school schedule,
- Students in group homes or institutions,
- Students who have been bullied, and
- Students at risk of academic failure, who may particularly benefit from intensive, personalized instruction.

The Board of Directors partners with Connections Education, a leading virtual school provider for curriculum, technology, and school support services including:

- Curriculum,
- Curriculum support personnel,
- Connexus®, a comprehensive Educational Management System (EMS),
- Professional development,
- Student, parent, and teacher technical assistance, and
- Additional consulting and support.

In the 2015–2016 school year, Connections is supporting 30 virtual public schools in 26 states, serving over 65,000 students. Connections is accredited by AdvancED¹ and was re-accredited in June of 2015. With the overall scores exceeding AdvancEd's average score for all of the schools and corporations they accredit, AdvancED reviewers noted that "Connections Education's quality assurance processes and data-driven culture leads to systemic, systematic, and sustainable continuous improvement."

The ultimate focus of this "high-tech, high-interaction" instructional model is student achievement. Students master the core subjects of reading/language arts, mathematics, science, and social studies through a challenging curriculum that meets Nevada Academic Content Standards (Common Core State Standards).

The developmentally appropriate curriculum increases its integration of technology as students advance through the grades. Each Connections course includes active learning elements, including online and/or offline activities that address diverse learning styles and preferences, ranging from textual, visual, auditory, and/or hands-on.

Connections' courses include 1,800 Teachlet® proprietary instructional movies and more than 1,000 primary source and instructional videos. Integrated "i-text" electronic textbooks are licensed from a variety of leading publishers including Pearson®, Perfection Learning, and others, while non-proprietary technology-based content is licensed from "best-of-breed" providers such as Grolier Online™, Houghton Mifflin Harcourt, and Discovery Education.® The instructional design includes interactive LiveLesson® sessions and threaded discussions.

The highly trained and experienced teachers are integral to student and school success. Highly qualified, Nevada-credentialed teachers are a key part of the program. Teachers are in regular contact with students via WebMail (Connections' proprietary, closed-system email program), telephone, LiveLesson® sessions, discussion boards, message boards, and other channels. Teachers instruct, motivate, monitor and evaluate student progress, personalize the curriculum, intervene as needed to ensure student success, lead field trips, and clarify the curriculum for the students.

¹ Accreditation agency serving 32,000 public and private schools and districts <http://www.advanc-ed.org/>

NCA provides integral tools to help teachers ensure students are successful including ongoing and comprehensive professional development in online learning pedagogy, curriculum with a focus on Common Core instructional shifts, data-driven instructional decisions, and Connections' own *Core Competencies for Facilitating Student Learning*. Additional Nevada- focused professional learning events are also offered throughout the year.

NCA integrates school, community, and home. A Learning Coach (a parent or guardian) may work with the student to ensure successful engagement in the program by providing motivation, collaboration, scheduling, and record keeping. Other links between home, school, and the community are created via both asynchronous and synchronous online activities. In addition, school staff members or Community Coordinators facilitate enriching in-person community activities and field trips to round out the comprehensive learning experience.

Students also have access to more than 25 clubs and activities that encourage students to explore interests beyond the classroom, develop leadership skills, and make friends within their school and with students from other schools supported by Connections. The school has also established chapters of the National Honor Society and National Junior Honor Society, providing students with additional opportunities for developing social, leadership, and community involvement skills.

A.2 History

NCA was launched in the fall of 2007 to provide a complete virtual school program to Nevada public school students. NCA has worked hard to fulfill its mission and original charter goals. NCA has experienced significant growth during the term of the charter, which speaks to the demand for this option, and also to NCA's overall success in fulfilling the mission and vision described in the charter.

The school was originally chartered by the Nevada State Board of Education. The charter was renewed unanimously in 2013 by the State Public Charter School Authority. It was supported for renewal by then SPCSA Director Dr. Steve Canaverro. In Dr. Canavero's words, at the charter renewal hearing in 2013, the school was a success. It appears that at that time the Authority recognized the school was effectively serving its students, perhaps giving careful consideration to the challenges faced in serving a mobile population. There have been minor amendments over the years such as charter facility relocation, grades offered, and Governing Board by-laws. Overall the school is still focused on its mission: *to help each student maximize his or her potential and meet the highest performance standards through a uniquely individualized learning program.*

The last official communication from the State Public Charter School Authority stated that Nevada Connections Academy was in "Good Standing" for its performance in 2013-14.

Enrollment and Demographics

Since opening, the school has drawn students from throughout Nevada. NCA has experienced a steady increase in enrollment almost every year. NCA now serves slightly over 3200 students in grades K-12. Figure 1 demonstrates the growth trends since its inception.

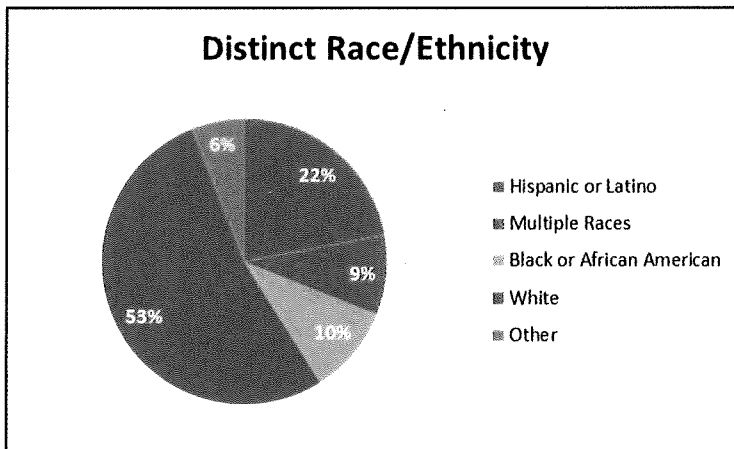
Figure 1. Enrollment Growth

School Year	Count Day Enrollment
2015-16	2,702*
2014-15	2,593
2013-14	1,945
2012-13	1,599
2011-12	1,715
2010-11	1,563
2009-10	1,322
2008-09	873
2007-08	420

** As of the 2015-16 school year, enrollment is not reported as a Count Day. The number reported is the enrollment as of September 30, 2015 and will be reported four times throughout the year. At the time of this report, NCA is serving over 3,000 students.*

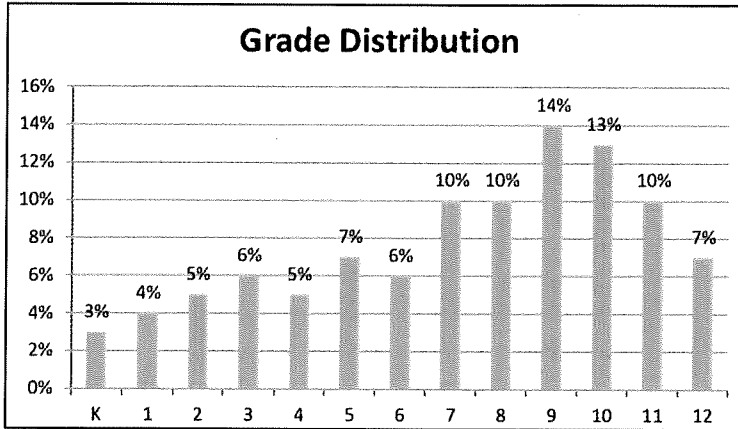
NCA serves a diverse population. Figure 2 provides information on the composition of the student body in January 2016.

Figure 2. Student Body Composition of NCA –January 2016



The students are currently 46% male and 54% female. Figure 3 illustrates the grade distribution as of January 2016. Students in 9th and 10th grades represent the largest percentage of students.

Figure 3. Grade Distribution as of January 2016



As of January 2016, **approximately 41% of the students served are socioeconomically disadvantaged**, measured by family income eligibility meeting federal guidelines for free or reduced lunch.

NCA also serves special populations through Individual Educational Plans (IEP), Section 504 plans, and gifted programs. The Special Education/504 population is approximately 12% of the total student population. The Gifted population is approximately 3% of the total student population.

Parent Satisfaction

NCA has consistently received high ratings on annual parent surveys. Parents are surveyed annually; the results are compiled by an independent third-party research firm, and presented to the school staff and Governing Board. Parent surveys provide quantifiable data by which the school leadership can work towards improving various aspects of the school. Over the past several years, the percent of parents who have responded to the survey has varied from 35% to 50%. Therefore, these results are considered reflective of the overall experience of the NCA families. More detailed results from parent surveys are included in annual reports to the Governing Board and are always available upon request.

Figure 4. Parent Satisfaction Survey Results for NCA for 2014-2015

