

The following testimonials are from NCA students and their parents. The testimonials were unsolicited and represent a sample of the kudos that the teachers and school receive on an ongoing basis.

- *My son LOVES you! We love NCA and will be moving our other child here because NCA "has it together!" We love NCA because of the teacher interactions.*
- *I am very happy with Melissa Pugh. She has really helped my daughter and she has brought her grades up. I would like to say Thank You.²*
- *Our family is new to NCA but so far we are having a positive experience. I find all of my questions and concerns are addressed in a timely and thorough fashion. We are very excited to start in a few days!*
- *Tiffany Grant has done great work with my son. Thank you.*
- *Thank you very much Ms. Lapidus. I'm so grateful. I have been working hard on this for at least three days.*
- *Fantastic. Way better than traditional institutions for numerous reasons. Love the brand new UPS'd textbooks, too!!!! Yet another plus! Thanks for accommodating to 2015!*
- *Over all this is a great school. Love the set up and everything.*
- *Ms. Murphy, You are our favorite teacher and the best thing about NCA. You are always in contact and it is so appreciated.*

A.3 Accomplishments

Academic and Educational Achievements

- In 2014-2015, NCA's composite ACT and SAT score averages were higher than both the state and national average scores.
- The class of 2015 valedictorian was awarded a prestigious U.S. Army pre-med/medical school combined program scholarship.
- The 119 graduates in the class of 2015 earned a total of \$562,065 in scholarship money.
- Two 8th grade students both won 1st place at the Western Nevada Regional Science Fair.
- Students who graduated from NCA in 2015 were accepted at colleges such as:
 - Antioch University McGregor
 - Arizona State University
 - Arkansas State University
 - Art Institute of Las Vegas
 - Art Institute of Portland
 - Berea College
 - Biola University
 - Brigham Young University-Idaho
 - California Institute of the Arts
 - Central Bible College
 - Seattle Pacific University
 - Southern Oregon University
 - St. Mary's College of California
 - Suffolk University
 - University of Hawaii at Manoa
 - University of Idaho
 - University of Mobile
 - University of Nevada: Las Vegas
 - University of Nevada: Reno
 - University of North Texas

² Melissa Pugh is an NCA graduate who went onto graduate from the University of Nevada, Las Vegas.

- Chapman University
- Colorado Christian University
- Corban University
- Dominican University
- Drake University
- George Fox University
- Gonzaga University
- Lake Forest College
- Nevada State College
- Northern Arizona University
- Oregon State University
- Saint Peter's College
- Santa Clara University
- University of Oregon
- University of Portland
- University of San Diego
- University of Southern Mississippi
- University of the Pacific
- University of Utah
- Utah State University
- Utah Valley University
- Westmont College
- Whitworth University
- Willamette University
- William Jewell College

Other Achievements

- NCA is accredited by the Northwest Accreditation Commission (NWAC), an accrediting division of AdvancED.
- In 2015, an NCA High School Student was national Runner-up for the national Prudential Community Spirit Award.
- NCA has ongoing community service programs with the Foodbank of Northern Nevada and other regionally recognized agencies.
- A 9th grade student was recently chosen to serve on the global Pearson Student Council and will have the opportunity to represent his school and interact with peers from around the world.
- Our school counseling program presented some of its successes at the recent Nevada Association of School Counselors conference.
- Principal Steve Werlein participated in a business leaders' roundtable with the presidents of three state universities and other educational leaders in 2014.
- NCA recently hosted a "Read for the Record" event which included participation from US Congresswoman Dina Titus (virtually from Washington, DC) and Reno's Chief of Police. Approximately 900 people attended "live" at one of the in-person venues or virtually.
- NCA hosts career and college fairs in both southern and northern Nevada. This year's events included participation from a variety of public safety, post-secondary, and vocational agencies and had record numbers of attendees.

A.4 Academic Accountability

It is important to note that scores may fluctuate from year to year. Student mobility and growth rate are important factors in analyzing academic performance. Many students and families choose a virtual school program to serve a unique need for a particular period of time, i.e. medical reasons, sports or performing arts/acting, family move, bullying, and so forth. Their intent is to solve a family issue and enroll in a virtual school for a limited time. As a result, virtual schools experience student turnover both during the year as well as from year to year. As such NCA is particularly susceptible to enrollment fluctuations and the subsequent impact on academic performance data.

Student academic achievement is the highest priority for NCA. Over the last year, NCA has put in place several significant interventions and enhancements to ensure that student performance exceeds the growth targets, especially among the subgroup populations. These include:

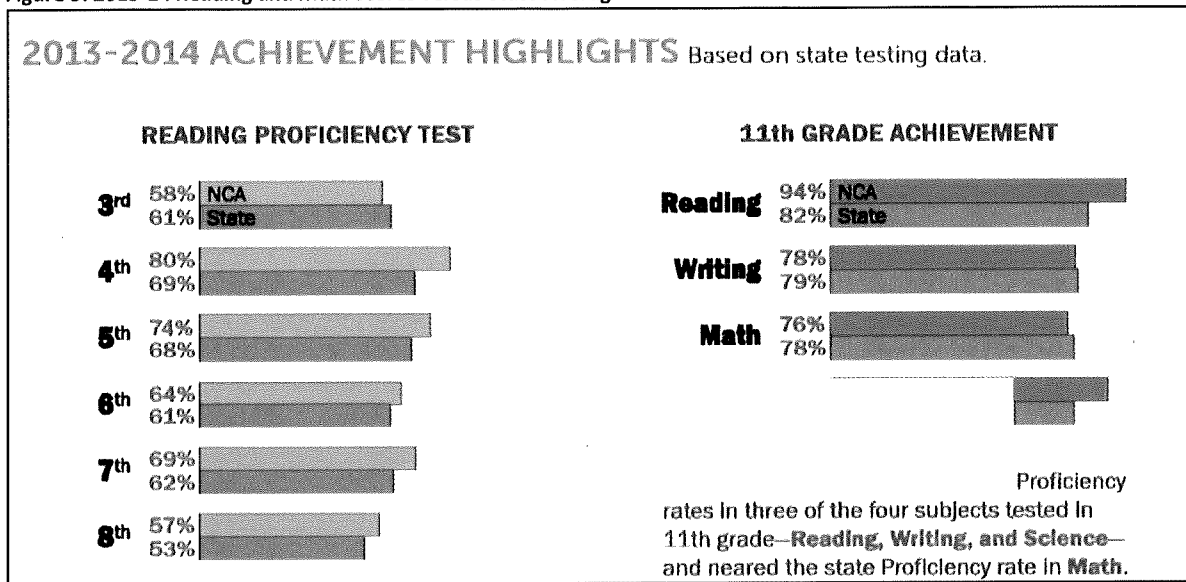
- Ongoing in-depth assessment and performance data on individual students, which is available to teachers and administration in “real time” and used to modify and individualize programming;
- Targeted , individualized remedial courses for students who are underperforming, and a wide selection of Gifted, Honors, and Advanced Placement (AP) courses for advanced students;
- Addition of staff who specialize in working with at-risk, credit deficient students in core areas, and a literacy specialist dedicated to providing intervention type instruction;
- Addition of highly qualified and trained teaching staff to teach AP courses;
- Expansion of existing counseling and support programs to address the diverse and often profound social emotional needs of our students;
- Expansion of teacher-led Professional Learning Communities (PLCs) that establish goals, meet regularly, and focus on student data to guide their actions. These are tracked and monitored by school leadership;
- Additional internal and external targeted professional development for teachers in critical areas such as mathematics instruction and student engagement;
- Identification and targeted use of supplemental resources and strategies to support struggling students in the areas of literacy, mathematics, and study skills.

The regular evaluation of the academic performance of students, the use of student performance data to drive changes and improvements to the school program, the increasing use of PLC’s, and the development of annual goals and plans to increase student academic achievement all demonstrate a dedication and focus on student performance.

The following represents NCA’s most recent performance on state assessments in 2013-14 as the 2014-15 data was not publicly reported. NCA is proud of its performance on the 11th grade proficiency test. NCA significantly exceeded the state performance in Reading and Science and was within 1-2% points from the state proficiency average in math and writing. There is still room to improve but NCA’s performance on the state proficiency test demonstrates that it is successfully teaching students in the key content areas. Figure 5 provides more detailed information on NCA’s performance on state assessments.

NCA receives separate ratings on the School Performance Report for elementary, middle school, and high school. Nevada did not compute new ratings for 2014-15, but instead carried over the 2013-14 ratings. NCA’s middle school rating was 4 out of 5 stars for both 2013-14 and 2012-13, while the elementary and high school received a rating of 2 stars in 2013-14. Both the elementary and high school fell two points short of receiving a 3 star rating, which both had achieved in 2012-13.

Figure 5. 2013-14 Reading and Math Scores versus State Average



For the elementary school, the strongest ratings were for English Language Arts (ELA) for proficiency and even stronger performance in growth, receiving 80% of the possible points for ELA growth. The middle school had solid performance with all indicators, but also excelled in ELA proficiency and growth, earning 80% of the possible points for both measurements. **The high school performance was strongest in closing achievement gaps, earning 90% of the possible points in this area.** All grade spans met the minimum testing participation rates and also had very strong performance on Average Daily Attendance.

A.5 NCA Board of Directors

Governing Board

The Governing Board is a knowledgeable, well-educated, and active Board. The Board has been successful in maintaining a prominent role in the direction of the school via policy and oversight. The Board receives regular reports at Board meetings from the school leadership on all aspects of the school's operations, including budgets, funding, staffing, enrollment, and growth. In addition, the Board is apprised of school-wide state test and other assessment results, and the results of the annual parent and staff surveys. The Board is therefore able to engage in ongoing evaluation of the school's effectiveness and able to participate in the review and refinement of the school's vision, purpose, and goals. School leadership works with school staff and stakeholders to develop specific annual goals. These goals are then presented to the Board for final approval prior to implementation. School-specific goals align with the Board goals outlined in the charter and mission/vision for the school. The Board has been actively engaged in efforts to improve the graduation rate, cognizant of the challenges given the high mobility of students and significant credit deficient population. The Board has shown a commitment to both continuous improvement in the high school program and working with the State on policy to ensure schools are incentivized —not punished— for serving the most at-risk students who come to NCA as a last resort before dropping out.

The Board successfully provides oversight by reviewing and approving the school's policies and procedures. All Board members are invited to provide feedback on new programs, such as webinars with curriculum experts and designers, and content that will be provided to students including providing a designee to participate in an in-depth study of the curriculum to be offered by the school. Board members have attended several trainings and conferences to fully understand their roles as Board members and maintain their knowledge of charter school governance best practices and trends. These trainings include a Connections-hosted all-Board member training in Nevada, as well as the annual Board Academy offered by Connections. Board members have also been able to attend conferences such as the iNACOL conference, the National Charter School conference, and other training opportunities and conferences held by the Nevada Department of Education. The Board has consistently maintained all required regulatory parameters of the governing body's membership. The following members currently serve on the Board:

- **Dr. Jafeth Sanchez, Board President**

Dr. Jafeth Sanchez earned a Ph.D. from the University of Nevada, Reno's College of Education in Educational Leadership, with an emphasis on Higher Education Administration. She is an assistant professor and focuses on developing high quality school leaders in K12 education. Her research agenda is on educational leadership practices, organizational change efforts, diversity initiatives, outreach, student resiliency, P16 alignment, and GEAR UP outcomes. She has actively managed and attained grant funding as a principal investigator or co-investigator for approximately \$1.6 million since the fall of 2012. She also serves as a cost-share match for the Nevada State GEAR UP project, which has approximately 5,500 students and has served 36 middle and high schools in Nevada; GEAR UP is a competitive U.S. Department of Education grant program that increases the number of low-income students who are prepared to enter and succeed in postsecondary education by providing states and local community-education partnerships with six- to seven-year grants to offer support services to high-poverty, middle and high schools. Sanchez previously taught mathematics and was awarded Northern Nevada Math Teacher of the Year 2012 by the Northern Nevada Math Council. She was also a Bill and Melinda Gates Millennium Scholar and serves as a mentor for its current scholars throughout the country. Her passion for educational improvement and access to higher education are embedded in all aspects of her work in teaching, research, and service.

She has been a part of NCA since 2011 and currently serves as President of the Board.

- **Dr. Scott Harrington, Board Vice President**

Dr. Scott Harrington is currently the Clinical Supervisor for Mosaic Rehabilitation-Blueprints Division. He has been working with people with disabilities since 1990, when he earned his Bachelor's degree in Psychology at CSU Long Beach. He earned his Master's degree in Psychology (Behavior Analysis) at the University of the Pacific in Stockton, California, and his Doctorate, also in Psychology (Behavior Analysis), at the University of Nevada, Reno (UNR). Dr. Harrington has written and directed multiple projects to help individuals with disabilities live more independent lives. He is a founder of the first elementary charter school in Nevada, Sierra Nevada Academy, and a former middle school mathematics teacher. He has presented over 40 papers on data-based interventions to assist persons with disabilities, has several publications across multiple areas, and currently teaches at UNR. His research interests include inclusion, integrated employment, transition, intrinsic motivation, attitudes about disabilities, and interagency collaboration. Dr. Harrington is a Board Certified Behavior Analyst (BCBA-D), a member of the Association for Behavior Analysis (ABA), and on several advisory boards.

He has been a Board member since 2010 and currently serves as Vice President of the Board.

- **Kelly McGlynn, Board Treasurer**

Kelly McGlynn graduated from the University of Nevada, Reno, in 1998, with a Bachelor of Science degree in Business Administration. She is a Certified Public Accountant with more than 14 years of experience in public accounting. Ms. McGlynn is currently president of her own company specializing in tax preparation and bookkeeping services. She is a member of the American Institute of Certified Public Accountants and a member of the Nevada Society of Certified Public Accountants. Ms. McGlynn became involved with Connections in 2011 while searching for an alternative to public school for her then eight-year-old daughter. She feels that education is extremely important but that all children learn in different ways. She is happy to serve on a Board that provides children alternatives to brick-and-mortar schools.

McGlynn has been on the Board since 2013 and currently serves as Board Treasurer.

- **Marisa Delgado, Board Secretary**

Marisa Delgado earned her Master's degree in Educational Leadership from the University of Cincinnati, and currently holds her administrative certification with the state of Nevada. She is currently the Math Department Chair at Bishop Gorman High School. Ms. Delgado has spearheaded the new 1:1 iPad program at Bishop Gorman High School. Integrating technology into the classroom and having students use technology for higher levels of thinking is one of her goals. She also runs the senior internship program where she places around 20 high school seniors each year with different companies around the Las Vegas Valley, allowing them to get real life work experience prior to leaving for college. Ms. Delgado co-chaired the teacher mentor program for new and transitioning teachers into Bishop Gorman High School, to assure an easy transition focusing on teacher retention. Ms. Delgado is currently the chair of the Teaching and Learning Leadership committee for accreditation through WCEA. Ms. Delgado is involved in the student leadership program on her campus running the Link Crew freshman orientation where students are greeted by upperclassman that she has trained to run small group activities that will prepare students for life in high school. Continual education and building a better future for children today motivates her to remain engaged in providing new opportunities for children.

Ms. Delgado has been a part of NCA since 2013 and currently serves as Board Secretary.

- **Mindi Dagerman, PE, Board Member**

Mindi Dagerman, PE, earned her Master's in Business Administration from the University of Nevada Reno. She also holds her Professional Engineering License in Mechanical Engineering in Nevada. Ms. Dagerman is the Engineering Supervisor/Design at Southwest Gas for the Northern Nevada Division. Her department manages new business, replacement, system improvement, and meter set projects for natural gas distribution to customers throughout the division.

Ms. Dagerman is passionate about all children having access to high quality education. She loves to see more school choice available for parents and wants to see students find a school program that supports their learning style.

Ms. Dagerman has been on the Board since 2008, and she currently serves as the business sector representative on the Board.

- **Tessa Rivera, Board Member**

Tessa Rivera earned her Master of Arts in Educational Counseling from San Jose State University following her Bachelor of Arts studies in Communication from San Diego State University. She was an AVID (Advancement Via Individual Determination) Program English teacher, Student Advisor, and varsity athletic coach in California from 2000 through 2010. Additionally, Mrs. Rivera enjoyed her work with San Jose State University as a mentor teacher collaborating with the school's teacher credential program while also employed as a GEAR UP and Upward Bound Pre-College programs counselor and test preparation instructor. Currently, Mrs. Rivera serves as the Dean of Students for the freshman class, moderator of the Dance Team, and Jewelry Club advisor at Bishop Gorman High School all the while diligently pursuing an Ed.D at Northcentral University engaged in researching the impact of organizational leadership on new teacher attrition rates throughout the United States. Mrs. Rivera's educational philosophy is dedicated to promoting life-long learning in addition to supporting and motivating all students to reach their full potential, specifically utilizing the elements of Bishop Gorman High School's Freshman PRIDE (Prepared for class, Respect for self and others, Integrity in Academics, Determination to do well, Effort in all pursuits) Program.

Mrs. Rivera has been on the Board since 2015.

- **Gene Stewart, Board Member**

Gene Stewart is a seasoned business professional and entrepreneur. He received his MSc in Comparative Pathology from the University of California, Davis in 1983. He has held positions in global marketing with SmithKline Beckman and others commercializing new technologies in bioinstrumentation. In 1996, Mr. Stewart launched Knotty Bear Development building and selling luxury resort mountain homes. In 2005, he founded a new company, Biophoretics, Inc. focused on the research and development of a new automated technology for the discovery of biomarkers. In 2010, he commercialized Biophoretics for the global distribution, marketing, and sales of high value tools for life science research. He has also served on the Board for Center Street Mission helping the homeless regain their foothold in life. He believes in the triad of family, education and the desire to help every child reach for the sky.

Mr. Stewart has been on the Board since 2015.

School Leadership

- **Steve Werlein, Principal**

Steve Werlein's career as an educational leader has taken him not only across the geographic spectrum of the country, but across the diverse public and private educational landscape as well. Mr. Werlein has proven that when given a rigorous and relevant curriculum, high expectations, and caring, nurturing adults, all students can find success.

As a high school world language teacher, he created a home study program for non-native speakers of Spanish in Mexico, and an intensive Spanish course for native speakers. While teaching, he was also the leader of one of the first one-on-one technology initiatives in the state of Illinois. As a school administrator, Mr. Werlein has served as Assistant Principal of a large, urban middle school near Chicago where he and his team successfully rebuilt the school culture and created an inclusive, positive environment.

After leaving this role, Steve assumed his first principalship which entailed leading a vocational school for students with severe behavioral challenges. His efforts there led to the creation of a unique, blended curriculum which fused practical vocational skills with core academic content and led to many students entering skilled trades and other post-secondary options.

Next, Mr. Werlein was privileged to serve as the Director of Curriculum and Instruction and Principal at Henry Ford Academy in Chicago, which is housed in part of the original Sears Headquarters on the city's west side.

Mr. Werlein moved to suburban Austin, Texas where he started a charter high school with 35 students that has since grown to an exemplary rated, K-12 campus with 1,000 students.

Throughout his career, he has been passionate about finding creative, engaging ways to hold students to high standards and feel connected to their learning communities.

Education:

- Bachelor of Arts Degree in international political economy and Spanish from DePaul University
- Master of Education Degree in secondary teaching and curriculum from DePaul University
- Certificate of advanced study in school leadership from National Louis University
- Currently a doctoral candidate at the American College of Education

Appendix B

NCA's Federal Four-Year Adjusted Cohort Graduation Rate (2015) Calculated Under NCLB

Nevada Connections Academy (NCA) is committed to the students it serves. At least weekly, we review and analyze data down to the individual student level and use the data to make informed decisions to maximize each student's chance of success. NCA's 2015 Cohort Graduation Rate identifies a percentage of students who did not graduate. NCA leadership is learning from these students and applying lessons learned to the graduation improvement plan. However, there are also lessons still to be learned about:

- How to identify students at risk to not graduate and how to best address risk factors.
- How schools with higher than average mobility rates are impacted by the current four-year cohort method of calculating graduation rate.
- Factors outside of the school's control which often lead to students being counted as non-graduates, even when they continue their education.

NCA is confident that through its ongoing analysis of data and implementation of targeted, individualized programming, its graduation rate will improve.

B.1 Detailed Look at the 2015 Graduation Cohort

In an effort to fully understand the challenges that NCA faces relative to the current NCLB four-year cohort calculation of the graduation rate and to gain insights on areas to target for improvement, an analysis was conducted of the 2015 graduation cohort. The final cohort consisted of 334 students – 119 graduates and 215 non-graduates - for a four-year cohort graduation rate under NCLB of 35.6%. For the entire cohort (334 students), 143 (42.8%) were two or more credits behind when they enrolled; 56 (16.8%) were more than 6 credits behind when they enrolled.

When looking at this cohort at the individual student level, some interesting patterns became apparent. For the non-graduates in the cohort (215 students), 137 of them (63.7%) were behind two or more credits when they enrolled. Figure 1 provides a breakdown of the grade level at which these non-graduating students enrolled and their level of credit deficiency.

Figure 1. Non-Graduates Grade Level Upon Enrollment

Credit Status	Non-Graduates' Grade Level upon Enrollment			
	9 th grade	10 th grade	11 th grade	12 th grade
0 – 2 Deficient	30	10	18	20
2 – 6 Deficient	1	20	24	36
> 6 Deficient	0	2	22	32

As the data shows, non-graduates were likely to enroll later in their high school career, thus providing a shorter period for NCA to catch them up to graduate in their cohort: 152 or 70.7% of the 215 non-graduates enrolled in the 3rd or 4th year of high school, and 114 or 75% of these students were two or more credits behind when they enrolled.

Of the students who graduated on time in the 2015 cohort, a much different picture emerges, as illustrated in Figure 2. Graduating students tended to enroll earlier and with significantly less credit deficiency.

Figure 2. Graduates Grade level Age Upon Enrollment

Credit Status	Graduates' Grade Level Age upon Enrollment			
	9 th grade	10 th grade	11 th grade	12 th grade
0 -2 Deficient	30	17	26	40
2 – 6 Deficient	0	2	2	2
> 6 Deficient	0	0	0	0

Of the students who graduated, 59% enrolled in the 11th or 12th grade, and 6% of them were two or more credits behind when they enrolled.

Another important consideration is the group of students enrolled in an institution of higher education but were not counted as graduates for NCA. In this cohort, seven students enrolled in 12th grade, were not counted as graduates from NCA, but have enrolled in college. Additionally, eight students enrolled as seniors who were expected to graduate on-time with their class but did not graduate. The story behind each of the students warrants further analysis. The overall graduation rate improvement plan also focuses on maintaining the progress of our students who enroll in the school and should graduate on-time with their class.

B.2 Concentration of Credit Deficient Students

It is also interesting to view the data for the concentration of students in the graduation cohort that arrived at NCA credit deficient. In Figure 3, Credit Deficient is defined as having fewer credits than expected at the time of enrollment. For example, a student enrolling at the beginning of 10th grade would be expected to have earned 5.0 credits during the student's freshman year. If a student enrolled with less than 5.0 credits, the student would be considered credit deficient. Figure 3 provides this information about students enrolling as 10th-12th graders at NCA.

Figure 3. Percentage of Students Enrolling Credit Deficient

Grade Upon Enrollment	# of Students in Cohort	# Credit Deficient	NCA % Credit Deficient
10 th grade	51	28	54.9%
11 th grade	92	58	63.0%
12 th grade	130	79	60.8%

Clearly, the percentage of credit deficient students enrolling at NCA is significant. This includes 60% of the students enrolling as 12th graders when NCA only has one year or less to catch the student up for on-time graduation. NCA is fulfilling a unique niche in serving students who are struggling.

B.3 Where Did the Non-Graduates Go?

When hearing the term “non-graduate” it is easy to assume that these students are no longer in school. However, that isn’t the case for many of the non-graduates included in the NCLB calculation of the NCA 2015 cohort. Of the 215 students in the 2015 cohort who are included in the calculation as “non-graduates”, 146 of them either enrolled for a 5th year of high school or continued their education after withdrawing from high school:

- 63 transferred to an adult education program (and, therefore, would have been excluded from the State’s calculation of drop-outs for annual accountability reporting but are still considered non-graduates)
- 59 re-enrolled for a 5th year at NCA. Based on current achievement, it is likely that between 20 and 25 will graduate by July of 2016, in addition to the 8 already who have graduated.
- 24 transferred to a GED program (and, therefore, would have been excluded from the State’s calculation of drop-outs for annual accountability reporting but are still considered non-graduates)

Unfortunately these students while still enrolled in school are counted as non-graduates according to the NCLB four-year cohort calculation currently being considered by the Authority. Appendix D provides policy recommendations to address this issue, and NCA is seeking further evaluation of this calculation in light of Nevada statutory requirements for annual accountability reports to exclude some of these students from the drop-out rate. If a student is not considered in the drop-out rate calculation, they should not be considered a non-graduate in the four-year cohort calculation. **NCA estimates that if the students who entered a GED program and transferred to an adult education program were not counted as drop-outs in NCA’s 2015 four-year cohort graduation rate, that rate would be 48.18%.**

If 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.

B.4 Lessons from the Data

Although NCA is not officially designated as a credit recovery/alternative school, many students enroll in the school after falling behind in credits during their prior schooling. Discussions of NCA's graduation rate and NCA's performance should consider that NCA is not responsible for the student's experience prior to enrolling in NCA and that NCA often times helps students who have struggled in other schools re-engage and find a path to graduation. NCA has shown that it helps some students recover credits (10.1% of the students who graduated in 2015 were credit deficient when they enrolled), but the school continues to diligently strive to improve its efforts and bring more urgency in the task of credit recovery for credit deficient students, while continuing to provide a rigorous academic program.

Conversely, for those students who enroll in their 11th or 12th grade and are severely behind in credits, it is simply not realistic to expect that many of them will catch up by the end of their 12th grade year. In the 2015 cohort, 54 students entered in the 11th or 12th grade more than six credits behind. NCA welcomes these students even though it is highly unlikely they will graduate on cohort. NCA's job is not done with these students after their cohort graduates; it works hard to encourage them to continue their schooling. NCA's success with these students is not reflected in the four-year cohort calculation of the graduation rate under NCLB but clearly it is in the student's, the State's and the school's best interest to continuing enrolling and effectively serving these students.

Short of turning away these students (which NCA has no desire to do, and is not statutorily allowed) serving these students in the 2015 cohort created a **16 percentage point handicap for NCA**. That is, regardless of how effective NCA is with every other student including these students who enrolled two to six credits behind, the school's graduation rate for those students will still be reduced by **16 percentage points**.

In the 2015 cohort, more than two-thirds of NCA's non-graduating students continued to pursue an educational certificate of some kind. The state should consider monitoring these students' progress through robust data systems to see how many completed their certificate, whether it is a GED, diploma, or an adult education certificate, because such certificates are important demonstrations of college and career readiness. This is consistent with existing State law which excludes students who continue on to adult education or receive a GED from calculation of the drop-out rate for the State's annual accountability reporting requirements. Given the State's recognition that these students should not be considered dropouts, the State data systems may want to consider adjusting accounting for these stories as success versus failure to graduate. **As stated earlier, the graduation rate for NCA would be 63.3% for 2015 which exceeds the threshold of the State Public Charter Authority if students who enrolled in a 5th year, go into Adult Ed or entered a GED program are removed from the cohort.**

Appendix C

NCA's Anticipated Four-Year Adjusted Graduation Rate (2016)

NCA is actively monitoring the progress of the students who are anticipated to be part of the federal four-year adjust cohort for the class of 2016. Students from the anticipated cohort have been placed in one of five categories:

- **Group 1:** Those students that are currently enrolled at NCA and on-track for an on-time graduation.
- **Group 2:** Those students that are currently enrolled at NCA and with additional support and completion of credit recovery courses are anticipated to graduate either at the end of the school year or after a summer term and counted as an on-time graduate.
- **Group 3:** Those students that are currently enrolled at NCA but are not anticipated to graduate on-time. Students are typically placed in this category because they are significantly credit deficient. However, there are other possibilities such as a student that enrolled as a second-semester Senior that while on-track credit-wise, still is unable to graduate on-time because accreditation standards require a student to earn at least five credits from NCA.
- **Early Graduates:** Students that have already graduated from NCA, either after three years of high school or after the first semester of their Senior year.
- **Withdrawn Students:** Students that have withdrawn from NCA and have not yet been verified to have transferred to another school or meet other criteria that would remove these students from the cohort.

C.1 Detailed Look at the Anticipated 2016 Graduation Cohort

When analyzing the data about the anticipated 2016 graduation cohort, there are many similarities to the 2015 graduation cohort. The anticipated cohort size is larger (518 compared to 334), but the percentage of students that were two or more credits behind at the time of enrollment is very similar (43.1% compared to 42.8%) and the percentage of students that were more than six credits behind at the time of enrollment is slightly larger (20.3% compared to 16.8%).

Figure 1 shows a breakdown of the anticipated graduates and non-graduates as far as credit status upon initial enrollment, based on the grade level at the time of enrollment.

Figure 1. Anticipated Non-Graduates Credit Status by Grade Level Upon Enrollment

Credit Status	Anticipated Non-Graduates' Grade Level upon Enrollment			
	9 th grade	10 th grade	11 th grade	12 th grade
0 – 2 Deficient	27	20	27	19
2 – 6 Deficient	6	23	43	37
> 6 Deficient	0	0	65	40

Similar to the 2015 graduation cohort, where 70.7% of the non-graduates enrolled in the last two years of high school, 75.2% of the anticipated 2016 non-graduates enrolled in the last two years, as well, thus providing a shorter period for NCA to catch them up to graduate. Of these students, 80% were two or more credits behind when they enrolled (compared to 75% for the 2015 non-graduates). This is a significant increase in the percentage of students who are two or more credits behind and creates questions about why this is the case. Are more students not meeting Nevada’s standards and are looking for additional options? Are students being referred to NCA because of its open enrollment policy?

Of the students who are anticipated to graduate on time for the 2016 cohort, the data is also similar to the graduates from the 2015 cohort which again shows a stark difference from the anticipated non-graduates. Slightly over one-third of these students enrolled in 9th or 10th grade, and just 5% of the students arriving in the last two years were two or more credits deficient when they enrolled (2015 comparison is 41% enrolled in 9th or 10th grade and 6% of the students that enrolled in the last two years were two or more credits deficient upon enrollment.)

Figure 2. Anticipated Graduates Grade level Age Upon Enrollment

Credit Status	Anticipated Graduates' Grade Level Age upon Enrollment			
	9 th grade	10 th grade	11 th grade	12 th grade
0 -2 Deficient	34	37	62	69
2 – 6 Deficient	0	2	5	2
> 6 Deficient	0	0	0	0

C.2 Additional Information Regarding Withdrawn Students

The students who have already withdrawn make up the largest segment (44.6%) of the projected 2016 cohort. Of the 231 students in this category, 141 (61%) of them withdrew prior to the current school year. Thus one of the largest impacts on the eventual final graduation rate had already been determined prior to when the efforts began in 2015-16 to improve graduation rate. However, increased data reporting efforts instituted during the 2015-16 school year will have long term positive effects in ensuring that increasing immediate efforts are made to identify where students transferred.

It is possible that some of these withdrawn students will be documented as having transferred to another school and thus removed from the final cohort. However, the majority of these students appear to have transferred either to an adult education program (39.4% of the current withdrawals) or a GED program (13.4% of the current withdrawals). Thus the fate of 122 students as “non-graduates” appears to already be determined according to the cohort graduation rate calculation even though these students are persisting in school and receiving other academic credentials that better meet their needs. Under current Nevada law, these students must not be counted as drop-outs for purposes of annual accountability reporting and, therefore, should not be included in the calculation of the graduation rate for the school relative to the Authority’s consideration of potential closure under SB 509. *See NRS 385.347.*

C.3 Improvements Made This Year

There are positive signs that the school is on the right track:

- The projected graduation rate 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.
- 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.

The initial indications are that the school is headed in the correct direction. With the additional actions outlined in this plan, we are confident that the improvement in graduation rate will accelerate.

Appendix D

Policy Considerations – Application of Existing Law and Potential Regulatory Changes

The federal four-year adjusted cohort graduation rate was created to provide a consistent way for the graduation rate to be calculated across all schools and states. A cohort includes the students that start in the school in 9th grade, plus all that transfer into the school in later years, minus the students who leave for another school (unless confirming documentation of where the students went is unavailable, in which case the students remain in the cohort under the current method of calculation as discussed in Appendix C). After four years, the number of graduating students from the cohort is divided by the total number remaining in the cohort to get the four-year adjusted cohort graduation rate.

In practice, consistency has not been achieved, due to differences among states in the way they gather, code, and validate the data provided by schools. But more importantly, the cohort graduation rate calculation was designed with traditional schools in mind – schools with low mobility and a fairly consistent student population. This way of calculating the graduation cohort is not a very accurate measure of the performance of a school that has a high percentage of students who were credit deficient when they enrolled in the school or of a school with high student mobility.

To understand why this is so, consider the following example:

Imagine a school in which half the students enrolled as 11th graders and were severely credit deficient when they enrolled. Assume that from the date they enrolled, every single student in the school accumulated credits at a normal on-track pace of three to four credits per semester. Would anyone say this school is a failure? Of course not – every student in the school is accumulating credits on pace.

But its four-year cohort graduation rate could not be higher than 50%.

For most high schools, a significant majority of students remain enrolled during all four years, and so the four-year cohort graduation rate is a more accurate measure of these schools' performance.

But for high schools that are characterized by high mobility rates and a high percentage of students who are deficient in credits when they enroll, the four-year cohort graduation rate is heavily reflective of these students' prior high school experience where they became credit deficient, and not reflective of the performance of the school into which they transferred.

This is true for any school that has a high percentage of incoming students who are credit deficient – whether it is a virtual school, a brick-and-mortar charter school, an alternative school, or a traditional district school. For these schools, further analysis beyond the four-year cohort graduation rate, such as the actual credit accumulation rate of the students, is necessary to reveal how the school has performed.

This is the reason why alternative high schools are typically measured by different criteria. They have high percentage of credit deficient enrollees by design.

D.1 Transiency Rate and Impact on Learning

According to the Nevada Department of Education, transiency is defined as “the percentage of students who do not finish the school year at the same school they started.”¹ Figure 1 represents transiency rates for the state, Clark County, Washoe, the State Charter Authority, and Nevada Connections Academy (NCA) from the Nevada Department of Education.

Figure 1. Transiency Rates

District/School ²	Transiency Rate
State	26.5%
Clark County	28.8%
Nevada Connections Academy (NCA)	43.3%
State Public Charter School Authority	22.6%
Washoe County	22.0%

Virtual schools have a high mobility rate due to the various factors that lead students to choose to enroll in a virtual school. As is illustrated in Figure 1, NCA has a significantly higher mobility rate than the state average as well as the average of the State Public Charter School Authority – over 20 percentage points higher.

Many students choose NCA to solve a problem for a particular period of time such as bullying, medical issues, family situation, pregnancy, or other crisis situation.³ According to a report by Nevada Kids Count Children on the Move (2005)⁴, transiency has an adverse effect on student learning and “student mobility decreased the chance of students completing high school.” They also reported that “students’ school performance declined when they moved during the later years of high school” and that “educators believe it takes children four to six months to adjust academically after a school change” (NAEHCY, 2002).

Arizona recognizes the effect of transiency on student learning and created a policy that values a “persistence” factor in calculating school performance for alternative and virtual schools. An academically persistent student is “any student who is eligible to re-enroll at the end of the previous fiscal year and re-enrolls in any Arizona public school by October 1 of the current fiscal year. Students in grades 6 through 12 are included in the persistence rate calculation.”⁵ If students “persist” in learning, then schools receive points for student persistence in school. The Persistence Rate is equal to the

¹ <http://www.nevadareportcard.com/DI/Help/Glossary#PT>

² <http://nevadareportcard.com/PDF/2015/00.E.pdf>

³ http://kidscount.unlv.edu/newsletters/feb_2016KCNewsletter.pdf

⁴ <http://kidscount.unlv.edu/newsletters/childrenonthemove.pdf>

⁵ <http://www.azed.gov/accountability/files/2014/11/grad-do-persistence-rate-tech-manual-nov26.pdf>

number of students who re-enroll in the current year divided by the number of students eligible to re-enroll based on prior year. Nevada may want to consider a similar policy for recognizing that students who persist in their educational endeavors are important for the economic and long term future of Nevada.

NCA is committed to helping all students when they enter the school and to providing additional support and interventions when necessary. It is important to identify the issues facing enrolling students and examine the data. We know that many students enroll in NCA because of a temporary crisis or a family issue for which virtual schooling is the only solution, and when the situation is resolved, they return to their traditional school and graduate. The success that these students achieve during their time at NCA is not reflected in NCA's graduation rate calculation. In addition, many students in NCA enroll credit deficient especially in 11th and 12th grade. Therefore, the four-year cohort model is not an accurate measure of school performance.

Mobility is a challenge for state data systems to accurately track student enrollment. Accurate data reporting is the foundation by which metrics like graduation rate are built and it is imperative that state reporting systems accurately identify and report this population of students. Nevada may want to consider ensuring more robust state reporting mechanisms and resources that not only track transiency but assist schools in locating and properly reporting this highly mobile and transient population.

D.2 ESSA Changes to Four-Year Cohort Calculation

The Every Student Succeeds Act (ESSA) signed into law this past December changed how the four-year adjusted cohort graduation rate is calculated. A withdrawn student must have been enrolled "at least a half year" in the school (states are free to make this minimum attendance period longer) in order to be counted in the school's four-year cohort. Students who withdraw from a school prior to meeting the minimum attendance period are assigned either to the cohort of the school where the student spent the majority of grades 9-12 or to that of the previous school attended.

This solved the common problem of students dropping out after spending only a short time at a school and being counted in that school's cohort. ESSA recognizes transiency as an important factor in attributing a student's cohort graduation statistic to the appropriate school.

Under the new ESSA calculation, NCA's four-year cohort graduation rate will improve because many students enroll for short periods of time. As mentioned, states can define the minimum attendance period for inclusion in a schools cohort to be longer than half a year.

If this provision had been in place for the NCA 2015 graduation cohort, the effect on NCA's measured four-year cohort grad rate at different minimum attendance period levels is as follows:

- **If minimum enrollment period was set to the lowest allowed, which is 50% of a year: 63 non-graduates would be removed from NCA's cohort and the graduation rate would increase 8 percentage points.**
- **If minimum enrollment period was set to 75% of a year: 86 non-graduates would be removed from NCA's cohort and the graduation rate would increase 12 percentage points.**

This illustrates how volatile a measurement like four-year cohort graduation rate is dependent on simple definitions and calculation methods.

D.3 Pupil Accounting Policies

Under No Child Left Behind, states had some flexibility defining how pupils were to be accounted for in state accountability systems. Some states used this flexibility to lessen any disincentive to serve at-risk students. Under ESSA, states have even more flexibility to ensure schools are held accountable for student success while at the same time not penalizing those who serve challenging or at-risk populations.

North Carolina has for many years had a program for students with disabilities that led to a standard high school diploma. Nevada should consider adding such a pathway so these students will have every opportunity to gain the knowledge and skills necessary to be self-sustaining adults in their communities and earn a diploma which counts as a graduate for the cohort rate calculation.

In Nevada, the adult education program has three options, only one of which can be considered as a diploma. For purposes of calculating the four-year cohort graduation rate, students are automatically coded as dropouts when in fact all of them may not be, as they might have received a diploma. Nevada should consider a more accurate reporting method to properly account for these graduates. Nevada has an opportunity both to strengthen its adult education program to increase the percentage of students earning a diploma, and adjust the calculation to limit the number of students counted as dropouts and properly record students who earn a diploma.

D.4 Full Academic Year Definition

Each state has the ability to define a full academic year (FAY) student for purposes of state accountability. Recent trends, possibly due to the expansion of educator evaluation systems that incorporate student performance measures, have included expanding the definition of FAY out of sense of fairness to education professionals and schools. This year Georgia passed legislation requiring a student to be enrolled 90% of the school year to be used in educator evaluations, which may become the standard for school accountability in that state under new provisions of ESSA. Vermont also uses a very simple definition: students must be continuously enrolled from the first day of school until the last day of the school year. Closer to Nevada, Utah established a standard of 160 days of continuous enrollment; Indiana uses 162 days that represents 90% of the school year. As Nevada considers its new flexibility under ESSA, it should revisit the definition of a FAY student to ensure fairness in the system and remove some of the effects of transient students in a fast-growing state and ensure the proper schools are held accountable for a particular student’s performance. The following represents a sample of policies in other states that define FAY in a way that properly allocates performance with the school who served the student for the majority of the school year.

Figure 2.State Definitions of FAY

State	Statutory Language
Georgia	Continuous enrollment from the fall FTE count through the spring testing window.
Vermont	Continuously enrolled from the first day of school to the last.
Utah	Continuous enrollment for no less than 160
Indiana	October 1, for 162 days

D.5 Alternative School or Virtual School Classification

As the state considers policies for accountability, Nevada may also want to increase its efforts to develop a separate accountability system for alternative schools and/or virtual schools. Arizona, for example, created a separate virtual school accountability system in 2015 and also has an alternative school accountability system.

According to the National Association of Charter School Authorizers (NACSA), states should include “clear, measurable performance standards to judge the effectiveness of alternative schools, if applicable—requiring and appropriately weighting rigorous mission-specific performance measures and metrics that credibly demonstrate each school’s success in fulfilling its mission and serving its special population.” Alternative and virtual schools want to be held accountable for their performance but on metrics that recognize where students come from and their growth over time enrolled in the school.

Just like district schools establish alternative schools within a district, charter schools and authorizers may want to consider allowing charter schools that serve highly mobile and credit deficient students to establish an alternative school within, or separate from, an existing charter where students who meet identifiable criteria are placed. The 2015 Nevada Legislature adopted an alternative performance framework for schools that meet a minimum 75% student population requirement for serving at-risk students. NCA does not qualify for this alternative framework, in part, because it is not just a high school but a K-12 school. The intent of SB 509 in providing the Authority discretion in the “may” provision for closure was to ensure that this discretion was reasonably exercised and that compelling evidence, such as that discussed herein, would be considered relative to the graduation rate considered for a school’s performance. This allows a concerted effort and focus on a specific subset of a population, creates accountability metrics that accurately and fairly measure student performance, and creates a program targeted to student needs.

D.6 Multiple Accountability Measures

Graduation rate is one metric among many metrics that determine a success of a school. State proficiency, student growth, and college and career readiness are some measures that states are using to determine school performance. ESSA allows for additional flexibility in determining school quality such as a qualitative measures including parent satisfaction. Policies should consider multiple measures of student performance when considering quality of schools.

According to the Association Supervision Curriculum and Development (ASCD) “any comprehensive determination of student proficiency, educator effectiveness, or school quality must be based on more than just standardized test scores and should use a variety of measures appropriate to the individual or entity being measured.”⁶

⁶ <http://www.ascd.org/ASCD/pdf/siteASCD/publications/policypoints/Multiple-Measures-of-Accountability.pdf>

Nevada is currently in a transition period and has stated that multiple measures will be considered in a new accountability system including growth, science proficiency and other measures of student achievement. A circular from the Nevada Department of Education stated "A new school rating system is being developed and is expected to be in place after the 2016-2017 school year. Academic growth is an important factor when determining school ratings. Based on input from Nevada Stakeholders, growth will remain a measure in the next rating system. Other measures of student achievement from the current rating system are under review. Needed and exciting improvements are to come for Nevada's school ratings and will include the addition of measuring science proficiency."⁷

One recommendation presented to the Legislative Education Committee in April 2016 by an alternative school principal proposed that Nevada's Graduation metric include two measures of accountability so schools could be compared. One measure would be the federal cohort calculation and the other would be a four year continuously enrolled measure that would capture the graduation rate of students who are enrolled in a school for all four years. **For example, 79% of the students graduate at NCA who entered in 9th grade and stayed all four years in the 2013 and 2014 graduation cohorts.** Since mobility and transiency are significantly above the state average for NCA, this is a more accurate measure that demonstrates the effectiveness of NCA. Nevada could consider a policy that reports both measurements. Consideration of this is critical and essential under any proceedings, considering the potential for closure under SB 509 and the exercise of discretion based solely on the school's graduation rate. Additionally, the Authority held a regulation workshop in December 2015 and discussed drafting regulations to implement SB 509 relative to, among other things, closure proceedings and reconstitution. This regulation workshop should be completed to ensure the Authority has clear procedures and standards adopted in accordance with the Nevada Administrative Procedures Act, NRS Chapter 233B, and that all schools understood those procedures. In proper regulatory workshops and hearings, issues such as those raised herein could be considered.

Charter-authorizing best practices also value multiple measures in evaluating charter school performance. According to NACSA, "A quality authorizer designs and implements a transparent and rigorous process that uses comprehensive academic, financial, and operational performance data to make merit-based renewal decisions."⁸ NACSA defines the academic data, which should include: "state-mandated and other standardized assessments, student academic growth measures, internal assessments, qualitative reviews, and performance comparisons with other public schools in the district and state." Ranking schools in the state based solely on the four-year cohort graduation rate, calculated under NCLB with no accounting for transient rates or mobility, penalizes schools such as NCA for a student's experience in the system for years prior to entering. It can be viewed as an unreliable metric and should not be used as the sole reason to suggest that NCA should be considered for closure, despite all of its success in student growth rates and re-engagement of students who otherwise would dropout and never graduate. Multiple measurements should be considered to fully evaluate quality of a charter school which is a key best practice in charter school authorizing.

⁷ <http://nspf.doe.nv.gov/Content/PDF/six%20things.pdf>

⁸ <http://www.qualitycharters.org/for-authorizers/principles-and-standards/>

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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 JAY W. RAGLEY
IN SUPPORT OF MOTION FOR
TEMPORARY RESTRAINING ORDER
AND PRELIMINARY INJUNCTION**

I, JAY W. RAGLEY, 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 Senior Vice President, State Relations, for Connections Education. I have
3 worked at Connections Education since September 2013, first as the Senior Director, State
4 Relations, and then as a Vice President, State Relations. Connections Education provides
5 educational services, materials, and, support to Connections Academy of Nevada which, in turn,
6 serves Nevada Connections Academy.
7

8 3. Patrick Gavin was a panelist at The National Association of Charter School
9 Authorizers (NACSA) conference in Atlanta on October 26, 2016. I was in attendance at the
10 conference, where Mr. Gavin made several statements in a presentation he made to a large group
11 of people. Mr. Gavin represented the following during that session:

- 12 a. Access to funding in Nevada is curtailed by the graduation rate of the Authority-
13 authorized schools.
- 14 b. The State Public Charter School Authority is the lowest performing local
15 education agency (LEA) in Nevada in terms of graduation rate which Mr. Gavin
16 stated is “directly attributable to the performance of 4 online schools.”
17
- 18 c. There is a great deal of impatience on the policy-making and appropriations side,
19 and a significant amount of pressure to simply wipe the slate clean – no more
20 virtuals in your portfolio. Mr. Gavin stated “[m]yself and my board struggle with
21 that because this is a choice parents clearly want.”
22
- 23 d. That one of the virtual schools changed its model to improve graduation rate, and
24 according to Mr. Gavin it’s seeing improvement from going below the statutory
25 minimum of 60% to above it.
- 26 e. While talking about schools that are not changing models or making improvement
27 in graduation rate, Gavin says there are schools trying to avoid accountability that
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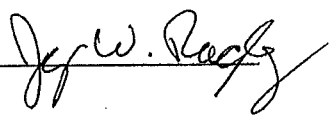
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is being put on the Authority, which is then put on schools.

- f. While comparing the Authority to non-profit authorizer in Ohio and a state agency authorizer in Georgia, Gavin says subject to a “significant amount of political and regulatory capture.” Followed up by mention of a lawsuit.
- 4. I understood Mr. Gavin to be referencing the four-year cohort graduation rate.

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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 31 day of OCTOBER, 2016, in COLUMBIA, SOUTH CAROLINA

JAY W. RAGLEY 

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8 IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
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21 CONNECTIONS ACADEMY,

22 Plaintiffs,

23 v.

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

Defendants.

Case No. 16 OC 00249 1B

Dept. No. 1

**DECLARATION OF JAFETH
SANCHEZ IN SUPPORT OF MOTION
FOR TEMPORARY RESTRAINING
ORDER AND PRELIMINARY
INJUNCTION**

I, Jafeth Sanchez, 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 President of the Board of Directors of Nevada Connections Academy. I
3 was appointed to the Board on July 14, 2011. At the June 12, 2012 board meeting, I was
4 appointed as Secretary of the Board. I was appointed President of the Board at the June 18, 2013
5 board meeting.

6 3. On October 3, 2016, I received an email from our Nevada Charter School
7 Authority Director, Patrick Gavin, with an attachment that highlighted key characteristics of
8 boards of high achieving charter schools in Washington, DC. *See Exhibit A, Charter School*
9 *Boards in the Nation's Capital* by J. Squire and A. Davis, Sept. 2016. As a reflective and
10 progressive board chair, I immediately opened the document to identify the key points and
11 consider how our board at Nevada Connections Academy (NCA) compares.

12 4. In short, the first key finding was, "Board Membership provides a route by which
13 the 'best and the brightest' of the community have an opportunity to serve" (Ex. A, p. 6). I am
14 confident our board has worked incredibly hard to recruit members who demonstrate this key
15 characteristic. Our NCA board members include the following: (a) two individuals who have
16 attained their doctoral degrees (PhD), with their specializations in educational leadership and
17 psychology; (b) one individual who completed a master's degree (MA in educational
18 counseling), is currently completing a dissertation toward a doctoral degree (PhD); (c) two
19 individuals completed a master's degree (business administration and educational leadership),
20 and two individuals who have completed their bachelor's degree (business administration and
21 comparative pathology). Beyond the degrees, their professional backgrounds reflect a wide array
22 of work settings, context, and professional experiences that shape our board having individuals
23 who are among the best and the brightest to serve our students, families, and their communities
24 within our state.

1 5. The second key finding indicated, "Boards (both district and charter) appear to
2 benefit from training related to school governance" (Ex. A, p. 7). Findings revealed there is a
3 relationship between participation in professional development and better student achievement
4 outcomes. While there was a reported needed for quality, amount, etc. related to the professional
5 development, this was a unique and useful finding. Our NCA board members have various
6 opportunities for professional development each year. These range from attending the National
7 Charter Schools Conference, the Nevada Association of School Boards Conference, and
8 individualized governance training provided by the educational management organization
9 (EMO; Connections Education). Thus, there are multiple avenues from which training is
10 provided to assure ongoing professional growth by all members.
11

12 6. The third key finding revealed that, "Charter boards in D.C. differ from district
13 boards around the country when it comes to race, age, and ideology" (Ex. A, p. 7). The authors
14 indicated that boards typically have White members (80%), whereas this was lower for charter
15 schools in DC (53%). For our NCA Composition, approximately 70% are White, while 30% are
16 from an underrepresented ethnic group. Similarly, the age distribution demonstrates some
17 balance. Finally, although, I have not inquired about specific ideologies, there will likely be
18 some balance in ideologies related to political views, as well.
19

20 7. The fourth finding in regard to, "Not having elections allows the charter sector to
21 tap a deeper pool of talent for board members," also demonstrates the practice related to board
22 membership for NCA (Ex. A, p. 8). In particular, no elections take place to identify members.
23 Consequently, recruitment efforts help to narrow in on talented individuals who are not only
24 capable but very willing to provide their time, commitment, and dedication to support school
25 improvement efforts.
26

27 8. Finally, the fifth finding addresses that, "One way to recruit and keep talented,
28

1 busy professionals on charter school boards is to make the job doable” (Ex. A, p. 8). It is well-
2 understood that our board members’ time is precious and valued. We work hard to ensure that
3 our meetings are effective and efficient. Meetings are held once per month, and members receive
4 materials (by email or hardcopy preference) in a timely manner. Efforts toward improvement are
5 strategic and a close relationship with our EMO is a major part in ensuring that efforts are
6 streamlined and strategic. This is critical in light of accountability needs. Our talented NCA
7 board is very reflective and works to make valid data-based decisions to support school
8 improvement efforts toward student achievement outcomes.
9

10 9. Thus, the five key characteristics identified by Squire and Davis (2016) can serve
11 as a guide for the development of effective charter school board membership. This report
12 provided a strong lens to reflect on board membership for Nevada Connections Academy. More
13 specifically, it revealed that these key characteristics, which have demonstrated a positive impact
14 on student achievement, are present within the board composition for Nevada Connections
15 Academy.
16

17 10. Our board has been very engaged on an ongoing basis and very concerned about
18 the recent issues this year with the State Public Charter School Authority and its Director, Patrick
19 Gavin. We have worked diligently to try to address the concern about the four-year cohort
20 graduation rate by dedicating significant resources to providing data on every student within the
21 cohort, providing information about the school’s performance serving credit-deficient and a wide
22 array of students across the State of Nevada, and attempting to work with the agency to identify
23 valid accountability measures on the school’s performance. In the discussions we have had with
24 Mr. Gavin he has seemed dismissive of the substantive information about the school’s
25 performance and repeatedly indicated that it is just all about the “numbers” referencing the single
26 data point of the four-year cohort graduation rate which we have demonstrated and many
27
28

1 education experts have acknowledged is not always an accurate measure of the school's
2 performance or student achievement.

3 11. In fact, we initiated a meeting with Mr. Gavin, which took place on September 1,
4 2015 at 1:00 PM. I attended the meeting along with our school principal, Steve Werlein, and our
5 board's counsel, Laura Granier to discuss the new "trigger" the Nevada legislature identified for
6 consideration of possible closure of charter high schools based on a high school graduation rate
7 below 60%. We wanted to have a substantive dialogue with Mr. Gavin to see how best to get
8 ahead of any concerns and share data, policies, have him visit the school and truly understand the
9 student population we serve. Unfortunately, he spent much of the meeting talking about a
10 different topic and then told us with respect to the graduation rate issue he "had bigger fish to
11 fry." This was the last we heard from Mr. Gavin before receiving a public agenda in February
12 2016 on which NCA was listed for consideration of issuance of a notice of closure to the school
13 based on this 60% graduation rate trigger.
14

15
16 I declare under penalty of perjury under the laws of the State of Nevada that the
17 foregoing is true and corrected and was executed this 2nd day of November, 2016, in
18 Sparks, Nevada.

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22 JAFETH SANCHEZ
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September 2016

Charter School Boards in the Nation's Capital

By Juliet Squire and Allison Crean Davis

Foreword by Amber M. Northern
and Michael J. Petrilli

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By Amber M. Northern and Michael J. Petrilli

It's often said that adding the word "charter" to a school's name doesn't prove that it is better or even different from district schools in the vicinity. The variation in quality within sectors is much larger than between them. What matters most for student learning and other important education outcomes is what happens inside the classroom—and any given curriculum, instructional strategy, or innovation could as easily be found in many a traditional public school as in a chartered one.

All that is true. Yet there is one important distinction between charter schools and those run by districts: their governance. Districts are almost everywhere overseen by elected school boards and operated as governmental agencies, while charter schools (like other nonprofit entities) are independently operated and overseen by a self-appointed, self-perpetuating board.

Charter opponents regularly make much of this difference, playing up the fact that charter boards are "private" entities rather than democratically controlled ones. Never mind that charter boards are accountable to public entities—the schools' authorizers—or that they must demonstrate key public outcomes (student learning, graduation, and so forth) and that they're open to the public (no picking and choosing of students allowed and no tuition charged).

Charter supporters sometimes find it difficult to counter the "lack of democracy" charge because their schools are, in fact, governed more like nonprofits than like municipal agencies with elected boards (just like many cherished organizations, including our universities and cultural institutions). But what if this turns out to be an asset rather than a liability? What if the boards that run charter schools are better run and more committed to academic excellence?

To determine whether that might be so, we went in search of empirical information on charter boards. Who serves on them? What are their qualifications and backgrounds? How do they spend their time, view their role, and potentially influence school quality?

These are important questions, to be sure, yet we found almost no information. Search for yourself. Aside from a handful of "best-practice" documents based on experience, anecdote, and conventional wisdom, there's a huge void in the research literature when it comes to board governance in schools of choice.¹ Along with special education, it is among the most neglected domains of education research.

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To be fair, there's not a whole lot more on elected school boards. We tried to help rectify that problem with *School Boards Circa 2010: Governance in the Accountability Era*, a report on a survey of district board members that we undertook in partnership with the National School Boards Association and Iowa School Boards Foundation. Our friend Rick Hess, director of education policy studies at the American Enterprise Institute, penned that analysis; he rightly noted then that "little empirical research on national board practices has been conducted since the passage of the No Child Left Behind Act in 2001." Sadly, that's still largely the case.

That 2010 survey did, however, supply a peek at the characteristics and perceptions of school board members, how they approach their work, and the training they receive, among other topics.

A few years later (in 2014), we asked Arnold Schober and Michael Hartney (of Lawrence University and Lake Forest College, respectively) to match the 2010 school-board results with demographic and student-achievement data for those same districts. Their key (and, one might say, entirely appropriate) finding, as set forth in *Does School Board Leadership Matter?:* districts that are more academically successful have board members who assign high priority to improving student learning.

That got us wondering whether charter school boards matter too. Do the types of individuals who serve, the views they hold, and the practices they adopt have any bearing on school quality?

To help answer this critical question, we turned to Bellwether Education Partners, a smart ed-policy research shop led by über-reformer Andy Rotherham. We were fortunate to land two of Bellwether's savviest analysts to lead the study: Juliet Squire and Allison Crean Davis, both of whom serve on charter school boards.

Ultimately, we and our Bellwether colleagues chose Washington, D.C., as a case study. As explained more fully in the report, the nation's capital is a good place to study charter board governance, as it operates under a single set of laws and regulations, a single authorizer, and a uniform set of school-quality metrics. Further, its scale (sixty-two boards overseeing 112 campuses) provides a number sufficient for comparisons. What's more, not only do D.C. charters answer to a single authorizer, but it is an authorizer that values transparency; the accountability framework designed by the D.C. Public Charter School Board (DC PCSB) can be readily understood and leveraged for additional analyses.

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That said, the D.C. charter sector is not typical of much else. It is relatively large—enrolling nearly half of the city's public school students—and well regarded for its quality. Stanford University's CREDO has found that students in D.C. charters gained an extra 101 days in math and an extra seventy-two days in reading over the course of a year, as compared to their counterparts in the D.C. Public Schools (DCPS)—this even as DCPS is itself rapidly improving. A mature and high-performing charter sector, such as we find in the District of Columbia, also surely differs in other ways, both observable and not, from those that are less established and perhaps more fragile. We're mindful too that all charter schools in D.C. are urban and that suburban and rural charter schools—of which the country has thousands—are apt to have fundamental differences.

So we cannot and do not claim that our findings are generalizable beyond the nation's capital. Yet they paint a detailed and revealing portrait of what is occurring there—and that may be, could be, or should be occurring elsewhere. Our survey response rate was strong (over 50 percent), and although this work is descriptive (not causal), it reveals some tantalizing differences between board members of higher- and lower-performing schools, as well as a number of notable similarities—all of which raise questions and hypotheses worth exploring elsewhere.

You'll find much more in the executive summary and full report that follow. But here are five observations that struck us hard. The first two reflect commonalities across both of the board sectors.

1. Board membership provides a route by which the “best and the brightest” of the community have an opportunity to serve.

We see in these data a picture of board members who are highly educated, successful, selfless, and civic-minded and who care enough about the education of children other than their own to devote themselves to trying to make schools better. (Indeed, the social capital on these boards would make James Coleman smile.) Earlier research found that some of these same characteristics are shared by many district board members as well. (Yet keep in mind these studies are vastly different in scope and sample.)

In both sectors, board members tend to be academically accomplished. In large school districts, 85 percent of board members hold a bachelor's degree and more than half have an advanced degree. In the D.C. charter sector, only 4 percent of board members have not graduated from a four-year institution, and a whopping 79 percent have advanced degrees.

Both groups are mostly well off financially. In large school districts in 2011, a majority of board members (54 percent) reported an annual household income of \$100,000 or more. The D.C. charter sector is wealthier still: 51 percent report household income greater than \$200,000 per year, and an additional 37 percent report between \$100,000 and \$200,000. Just 2 percent report income below \$50,000. (For comparison, the median household income in 2014 was \$54,000 annually; in D.C., it was \$91,000.)

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Both groups are also reasonably informed about the schools they govern. Traditional board members possess accurate information about their districts, especially when it comes to school finance, teacher pay, class size, and collective bargaining. A similar pattern plays out with D.C. charter board members, who are equally well informed about the characteristics of their schools.

Finally, the same majority of both district and board members responded that they do not have school-aged children (62 percent).²

By most observable characteristics, we see that citizens who choose to govern public schools, whether district or charter, are affluent, selfless, successful, civic-minded individuals. Board membership provides these “best and brightest” an opportunity to improve education in their local communities.

2. Boards (both district and charter) appear to benefit from training related to school governance.

We’re well aware of the pitiful state of teacher professional development that educators often report (and that research tends to corroborate³) is a waste of time. So we were surprised to find a relationship between board training and school quality for both district and charter sectors. Could it be that boards benefit more from their professional development than teachers?

Our prior research shows that district boards with members who report particular work practices (including participating in professional development) are linked to better student-achievement outcomes than would be expected given the circumstances of their districts (that is, they “beat the odds”). The current study shows that charter board members of higher-quality schools are also more likely to participate in specific kinds of training. Unfortunately, we don’t know anything about the quality of that training—though we have an inkling of its content. We know, for instance, that most district boards overall and charter boards in higher-quality schools (versus lower-quality schools) tend to participate in training about developing and approving a school budget, as well as in how to comply with relevant legal and policy issues.

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Could it be that boards benefit more from their professional development than teachers?
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Clearly we need to learn more about the quality, ideal amount, and substance of this training, given its association with school quality.

Now on to the differences . . .

3. Charter boards in D.C. differ from district boards around the country when it comes to race, age and ideology.

In general, district school boards tend to have more white members (80 percent), though the largest districts (15,000-plus students) are comprised of boards that are 67 percent white, 22 percent black, and 6 percent Latino. D.C. charter board members are 53 percent white, 33 percent black, and 5 percent Hispanic.

The board-member population of the District’s charter schools is also more balanced in age than traditional boards, with 30 percent between the ages of thirty-one and forty, 33 percent between ages forty-one and fifty, and 35 percent over the age of fifty. Our 2011 data for traditional boards show just 4 percent under the age of forty, 62 percent between forty and fifty-nine, and 34 percent sixty or older.

Finally, and perhaps most interestingly, district board members across the nation are much more likely to describe themselves as political moderates (47 percent) or conservatives (32 percent). The District's charter board membership skews much more to the left: 56 percent are liberal, 34 percent moderate, and just 7 percent conservative. (Of course, the District of Columbia is among the bluest political jurisdictions in the country.)⁴

Another big difference is that charter board members do not have to run for election, which brings us to our next point.

4. Not having elections allows the charter sector to tap a deeper pool of talent for board members.

We can't help but think that needing to run for election might discourage otherwise willing and capable individuals from serving on a board. Campaigning in today's fraught political environment is no picnic, especially when your plate is already brimming with a full-time job and family. Besides the cost in dollars and effort, "pro-reform" board candidates often get skewered by local unions.

It's not hard to see how serving on an appointed board of a nonunion school could be more appealing and perhaps more effectual, especially as members are free of the headaches of collective bargaining. There's also a higher chance that principals and board members are likeminded and supportive of one another because, unlike superintendents and district school boards, their working relationship is not subject to the vagaries of the latest election returns.

Finally, there are differences in how the two types of boards approach their work (below), which has implications for the types of individuals who are attracted to board service.

5. One way to recruit and keep talented, busy professionals on charter school boards is to make the job doable.

Part of the reason that D.C. charter boards can attract the best and brightest (other than the fact that there are lots of high-achieving professionals in D.C.) is that their workload on those boards is manageable. Many charter boards meet every six to eight weeks, and members spend an average of six hours per month on board service. Contrast that with district board members—42 percent of whom report spending twenty-five hours or more on board business a month and just 7 percent of whom report spending fewer than seven hours per month. They typically meet at least once, and often twice, per month.

Time is a precious commodity that charter boards tend to maximize, in part by approaching their work more strategically. Fully three-quarters of them say that their first or second top goal as a board member is ensuring that students achieve strong academic outcomes. Contrast that with district board members, who in 2011 showed little consensus on priorities in their districts. When queried about the most important objective of

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We can't help but think that needing to run for election might discourage otherwise willing, capable individuals from serving on a board.
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schooling, most replied, “Preparing students for a satisfying and productive life and helping students fulfill their potential.” There’s nothing wrong with that, but figuring out what it means as well as how board members can hold themselves and the school leadership accountable for attaining it is nearly impossible.

When charter boards set for themselves a focused and measurable goal, it’s easy to see how that increases the odds of attaining it, especially as everyone pursues a shared purpose.

We should also acknowledge the importance of external organizations in recruiting talented professionals and providing training that helps them structure their jobs to maximize efficiency. Outfits like Charter Board Partners, BoardSource, and BoardOnTrack help build strong boards by assembling rosters of talented individuals whose skillsets are matched to particular schools and boards in need of them. They figure out who might best contribute to and mesh with existing school and board leadership and provide them with ongoing professional development. It appears that to a considerable extent they are succeeding in D.C.

Charter supporters and reform “harbormasters” in other cities should take note. Although such folks already have a lot on their hands, they should add “developing great charter boards” to their to-do lists and consider recruiting organizations such as those above to help them do it.

As you can see, our work on board governance paints a somewhat complicated picture of the similarities and differences between district boards around the country and charter board members in the District. Combined with other key findings (below), however, a more concrete narrative emerges.

Our research on both sectors shows that almost all D.C. charter board members give top priority to student achievement, and that’s also generally the case with district board members in high-performing districts.

Within the D.C. charter sector, stronger schools tend to have board members who also are more knowledgeable about their schools, particularly relative to their school’s performance rating, demographics, and financial outlook. Those board members are also more likely to participate in training, engage in strategic planning, and meet monthly (rather than more or less frequently). They’re also more apt to evaluate their school’s leader and use staff satisfaction as a factor in such evaluations.

We’re left with the impression that good board members are good board members in any sector of education—and in other organizations, too. They set the right priorities, they do their homework, they monitor performance, and they evaluate the organization’s leadership.

But the opportunity to be a good board member is so much greater in the charter sector; therefore, it seems likely that the kinds of people who are apt to be good board members will find service on charter boards more appealing and perhaps more rewarding than service on district boards. You don’t have to run for election. You don’t have to bargain with an antagonistic union. You have much greater say about budgets and personnel. You

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Time is a precious commodity that charter boards tend to maximize, in part by approaching their work more strategically.”

don't spend endless hours every week on school business. We can't be sure that charters beyond D.C. also do a great job of attracting top-notch talent; this is important to investigate going forward. But based on what we've been able to learn from this study and comparing it with national analyses of district board members—which, we reiterate, are not fully comparable—we conclude that education-minded, child-centered civic leaders who want to engage directly with public education may find service on charter boards to be a terrific option.

One final thought: we're compelled to put in a plug for the oft-derided "Washington elite." According to today's populist politics, those of us who inhabit the nation's capital are mostly self-serving and possibly corrupt careerists. Maybe that's true in some corners, but the fine men and women who have volunteered to serve on the city's charter boards don't fit that stereotype. They are selfless, committed, and competent—and are likely one part, perhaps a vital part, of the reason why D.C.'s charter sector is so high-performing.

In fact, Washington's charter boards appear to mirror the vision that progressive reformers had for elected school boards over a century ago—that they be filled by the best and brightest of the community, who stand for the common good and place the interests of children ahead of their own interests or those of adult groups.

Such civic-minded citizens can be found on elected boards as well. So to opponents of charter schools and their "unelected" boards, we ask this: Do you want our schools to rise above crass politics, as the progressives of a century ago sought for public education? If so, we respectfully suggest that you embrace charter schools and applaud those who serve on their boards.

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EXHIBIT A

EXHIBIT A

**MINUTES OF THE
SENATE COMMITTEE ON EDUCATION**

**Seventy-Eighth Session
April 3, 2015**

The Senate Committee on Education was called to order by Vice Chair Scott Hammond at 4:09 p.m. on Friday, April 3, 2015, in Room 2149 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4412 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Exhibit A is the Agenda. Exhibit B is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Becky Harris, Chair
Senator Scott Hammond, Vice Chair
Senator Don Gustavson
Senator Mark Lipparelli
Senator Joyce Woodhouse
Senator Moises (Mo) Denis
Senator Tick Segerblom

STAFF MEMBERS PRESENT:

Todd Butterworth, Policy Analyst
Risa Lang, Counsel
Jan Brase, Committee Secretary

OTHERS PRESENT:

Kathleen Vokits, President elect, Nevada State Association of School Nurses
Deborah Pontius, Nevada State Association of School Nurses
Virginia Williamson
Sheila Story
Mary-Sarah Kinner, Las Vegas Sands
Leslie Pittman, American Federation for Children
Michael Chartier, The Friedman Foundation for Educational Choice
Jennifer Hammond, Advocates for Choice in Education of Nevada
Rebecca Franks, Advocates for Choice in Education of Nevada
Tiecha Ashcroft

Ms. Durish:

A cohesive plan is meant to address statewide initiatives and allow for a wide range of providers. Any plan would be aligned with statewide goals to ensure teachers and leaders who are most in need of professional development are guaranteed opportunities.

Chair Harris:

I will close the hearing on S.B. 474.

Senator Hammond:

I will open the hearing on S.B. 460.

SENATE BILL 460: Revises provisions related to the statewide system of accountability for public schools. (BDR 34-1108)

Senator Becky Harris (Senatorial District No. 9):

Senate Bill 460 addresses an alternative school performance framework and can be considered a companion bill to S.B. 461, which proposes individual graduation plans. Many charter schools have expressed concerns about their charter contracts. The contracts may be automatically revoked as provided by statute. While I believe this automatic-closure provision is an important safeguard to ensure we have high quality charter schools in Nevada, it is evident this policy does not account for the big picture in all circumstances.

SENATE BILL 461: Provides for an individual graduation plan to allow certain pupils enrolled in a public high school to remain enrolled in high school for an additional period to work towards graduation. (BDR 34-1091)

Senator Harris:

The NDE and others are aware of the plight of schools serving at-risk children. In fact, this past year the NDE convened a work group to examine the issue and make policy recommendations. As I understand it, the work group has recommended the creation of an alternative framework to measure the performance of schools serving at-risk kids. However, it is limiting their definition of these schools to very specific entities. They are adjudicated youth schools, credit recovery schools, and behavior continuation schools. While I agree that all these schools should be considered at-risk, I believe the door should be opened for the inclusion of additional, but narrowly defined, public schools. For example, there are charter schools specifically targeting their

services to students who have washed out of the local school district. These are students who have dropped out, been expelled, been declared habitual disciplinary problems or others with similarly difficult situations. Reaching out to and embracing these kids is critical. It is tough; it is often unsuccessful, but it sometimes works. Moreover, when it does work, lives are changed.

The problem for these schools is that the Nevada School Performance Framework and the charter school automatic-closure provision do not recognize the circumstances of these students adequately. If a high school has a student population made up entirely of students who have washed out of the school district and if that high school is able to get a third of its students through to graduation, even if it takes an extra year or two, should we close that school, or should we celebrate its good work?

At the very least, the work should be given a further look, and the measuring stick we use to assess these schools should consider the larger circumstances of their students and missions.

Language on page 2, section 2 of S.B. 460 requires the State Board of Education to adopt regulations prescribing an alternative performance framework for the evaluation of schools serving certain populations, as well as the manner in which those schools will be included in the statewide accountability system. Section 3 requires a public school wishing to be rated under the alternative framework to work with the local school board, or the charter school sponsor, to apply to the State Board for approval. Section 3 also prescribes eligibility requirements for the applicant schools. In short, 75 percent of the school's students must fall into one of five at-risk categories.

It is important to note these categories do not include students we traditionally think of as at-risk, English Language Learners, special education students and those living in poverty. To be considered at-risk for the purpose of changing a school's performance framework, a student must have been expelled, formally deemed a habitual disciplinary problem, an adjudicated delinquent, held back at least twice or subject to other very serious issues.

Section 4 amends the automatic-closure provision. Currently, a charter school is automatically closed if it receives three consecutive annual ratings at the lowest possible level. Senate Bill 460 changes this to any 3 years during the 6-year term of a charter contract. However, the school's sponsor may take other

action if the school has shown ongoing improvement. These actions could include extending the period of evaluation, creating or continuing a plan for improvement, or changing terms of the charter contract. Section 4 also authorizes an underperforming charter school to request assistance from its sponsor and requires the sponsor to provide such assistance.

Section 5 is responsive to a recommendation made by the NDE work group on the alternative framework. Because of the implementation of new criterion-referenced tests this school year, it prohibits the NDE from considering a school's rating for the 2014-2015 school year only.

Rather than punish, we need to encourage schools that take on our most difficult-to-educate students. This will not happen as long as our school performance framework provides no consideration to schools drawing three-quarters of their student bodies from the ranks of those who could not be educated elsewhere.

Senator Denis:

How many schools would fit these criteria?

Steve Canavero, Ph.D. (Deputy Superintendent for Student Achievement, Department of Education):

It would be difficult to provide a definite number, approximately 20 schools would immediately qualify, based on students' behavioral profiles.

Senator Harris:

We are in discussions with groups who have concerns about section 4 of S.B. 460, and we will hear from some of them today.

Dr. Canavero:

The NDE can create, through regulation if necessary, a flexible graduation rate requirement.

Senator Hammond:

One of the strengths of the American education system is the ability to give students many opportunities to succeed.



Laura K. Granier
775 473 4513
laura.granier@dgsllaw.com

March 24, 2016

Via Email

Patrick Gavin
Director, State Public Charter School Authority
1749 N. Stewart Street
Carson City, Nevada 89706

Members of the Board of the State Public
Charter School Authority
1749 N. Stewart Street
Carson City, Nevada 89706

Re: Nevada Connections Academy

Dear Mr. Gavin and Members of the Board,

Nevada Connections Academy ("NCA") is an accredited, comprehensive, online public charter school serving approximately 3,000 students from across our great state. NCA provides highly individualized learning opportunities for students and provides Nevada youth an important and innovative option. Its innovative nature was an important factor in the Authority's decision to grant the school a charter and more recently to renew its charter and has been recognized as an important tool in the State's ongoing efforts to improve educational outcomes of at-risk youth. Over the past years, the Authority and legislature have recognized the important role NCA plays in providing educational opportunities for Nevada's most important resource, its youth. However, the positive impact NCA has on families seems to have been masked by the State Public Charter School Authority's ("Authority") recent singular focus on NCA's 4-year cohort graduation rate, as calculated under current methodology under the No Child Left Behind ("NCLB") waiver.

We are submitting this letter to you to request that you not put this school in jeopardy, and elevate concern among parents without engaging with NCA to understand all of the relevant data and to carefully consider the important role NCA plays in the State's efforts to provide effective and meaningful education opportunities for its youth, especially those who are at risk of giving up on earning a high school diploma or equivalent alternative high school credential. Although we are providing some of the pertinent information in this letter, this is not a comprehensive discussion on the issues and cannot be a substitute for meaningful dialogue between a school and its authorizer which has never occurred to consider the students, their growth, and success at NCA.

A. Communications with NCA Would Inform the Authority of Compelling Evidence Material to the Issue of the Notice of Intent to Close

NCA is effectively serving students in Nevada and a meaningful look at NCA's student population and graduation information reflects that. An arbitrary citation to a single data point such as the 4-year cohort graduation rate as calculated under current methodology under the NCLB waiver does not.

Virtual schools have a high mobility rate due to the various factors that lead a student to choose 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. It is well known that a person who does not complete high school, or obtain on an equivalent high school credential is at greater risk of falling below the poverty level.¹ This population of Nevada youth that NCA serves are some of the most at risk of giving up on completing high school. The alternative education opportunity NCA provides for hundreds of these students has allowed them to leave the traditional brick and mortar school during the period of crisis, while remaining engaged in their academic pursuits, and then re-enroll in their traditional school when the crisis has ebbed. For some students who choose not to return to their traditional school, it has meant the ability to gain the education foundation they need to be successful pursuing their GED or other equivalent alternative high school credential. The success that NCA achieves during that time is not reflected in future graduation success if students transfer to a new school or other education program once their crisis situation is over, but the bridge NCA plays is often the difference between a student becoming a dropout statistic or a success story. In addition, mobility can be a challenge for state data systems to accurately reflect a mobile student population. Finally, many students come to a virtual school academically behind. It takes time for these students to catch up and they may need more than four years to graduate. Nevada does not include extended year graduation success into the cohort rate. NCA 2013-14 Cohort (started 9th grade in 2010-11 and expected to graduate in 2013-14):

- **77%** of full academic year 12th graders graduated in 2015 (enrolled by October 1st and continuously enrolled until graduation or end of the school year including summer);
- **83%** of students graduated who enrolled on cohort and stayed through the end of the Senior year regardless of grade level in the 2013 and 2014 graduation cohorts (126/151);
- **79%** of students graduated who entered in 9th grade and stayed all four years in the 2013 and 2014 graduation cohorts (41/52);
- **48%** of students enrolled were behind in credits at the time they entered NCA;
- **47%** of the students enrolled for the 2013-2014 school year qualified for the free or reduced lunch program.

NCA is focused on increasing the four-year cohort graduation rate as calculated under current methodology under the NCLB waiver (or as modified by the NDE under the ESSA); however, NCA would like to stress the importance of looking at multiple measures of evaluating schools and point out a few issues with the four-year cohort graduation rate as calculated under the NCLB waiver being such a high-stakes indicator of a school's quality.

¹ Among those between the ages of 18 and 24, high school dropouts were more than twice as likely as college graduates to live in poverty according to the Department of Education. They are more likely to be unemployed and are at greater risk of incarceration. See The Consequences of Dropping Out of High School at http://www.northeastern.edu/clms/wp-content/uploads/The_Consequences_of_Dropping_Out_of_High_School.pdf

Almost half of our students are credit deficient when they enroll in our school. That means even if every single one of our kids accumulated credits at a normal on-track rate from the moment they enrolled, our graduation rate would still be barely over 50%. Arbitrary graduation rate thresholds, especially a threshold based on a calculation methodology that is soon to be significantly changed under ESSA, are not a fair way to evaluate schools that serve a high percentage of credit deficient students.

For such schools there should be other metrics, such as rate of credit accumulation. Otherwise who will serve the credit deficient students when the schools doing so, but not reaching the 75% requirement to qualify for the alternative framework, are closed? This is precisely the reason why Senate Bill ("SB") 509 was amended to remove the automatic trigger of closing a school for sub 60% graduation rate, and instead to give the Authority discretion. That discretion should not be exercised in an arbitrary and capricious manner or without meaningful dialogue between the Authority and a school.

Including NCA on an agenda item for consideration of possible issuance of a Notice of Closure without first working with the school to evaluate this type of material information, relevant data and the students behind a single data point or understand NCA's progress and plans for change is arbitrary and capricious and in violation of Nevada law. It would be an abuse of discretion to issue a Notice of Intent to Close under these circumstances.

The recent NACSCA evaluation of the Authority reported that the Authority "is not effectively communicating with schools about their performance" on the frameworks. The only request NCA is making of this agency is precisely what NACSCA recommended: "the opportunity for schools to meet with staff to discuss the underlying data and how this data is used to calculate their ratings."

As the NACSCA report suggested, NCA requests the Authority (i) "focus on preserving the school autonomies when considering new regulations or requirements"; (ii) develop "a plan for differentiated oversight" which would squarely address the concerns NCA is raising about being considered under a potential notice of closure for a single and misleading data point; and (iii) "[r]evis[e] the organizational performance framework so that it describes what information the Authority will review and how the Authority will verify schools' compliance with the requirements." **Exhibit 2**, Minutes from Jan. 2015 Board Meeting (summarizing NACSCA findings and report).

B. The Failure to Provide NCA An Opportunity for Meaningful Dialogue and Notice and Opportunity to be Heard Prior to Issuing a Notice of Closure Violates Nevada Law & Policy

On February 22, 2016 we received a copy of the publicly posted amended agenda for the Authority's February 26, 2016 meeting which included an item for "[c]onsideration and possible action to direct Authority staff to issue Notices of Closure to Beacon Academy of Nevada, Nevada Connections Academy and Nevada Virtual Academy pursuant to NRS 386.535." You can imagine the confusion and concerns this raised for NCA, which had received no notice of the agenda item, any concerns from the Authority about its performance and, according to the Authority's last formal written communication to the school, was in Good Standing. **Exhibit 1**, (Letter from P. Gavin stating that for the 2013-14 school year NCA was "considered to be in Good Standing.")

Even more troubling was that the last in-person communication in a meeting with Mr. Gavin, Deputy Attorney General Greg Ott, NCA's Board President, Dr. Jafeth Sanchez, NCA school leader, Steve

Werlein, and me occurred on September 1, 2015 at NCA's request. The purpose of that meeting was to follow-up on issues discussed during the 2015 legislative session, explained below, relevant to the State's calculation of the graduation rate in a manner that would recognize and account for a school's effective service to credit deficient and highly mobile students.

During that meeting NCA expressed a desire to work with the Authority and the Nevada Department of Education ("NDE") on these issues to ensure the school was not blindsided by any attempts under Senate Bill 509 to rigidly or suddenly assert compliance issues related to the graduation rate. NCA expressed its desire to understand any concerns the Authority had and work cooperatively to address those concerns head-on in a transparent and collaborative manner. NCA explained that it served a significant population of credit deficient students and was receiving more and more enrollees with increasing credit deficiency issues. We also discussed student mobility issues and the school's exhaustive efforts to track where students go if they withdraw from NCA which, sometimes despite the school's best efforts, are unsuccessful.

Mr. Gavin's response was that the school could hire a private investigator to show it really tried to keep track of students who withdrew but also that he understood the concern about academic performance and the graduation rate issue. It was very clear from the September 2015 meeting that Nevada Connections Academy was still in "good standing" and that the Authority, at least for the upcoming year, had "bigger fish to fry" according to Mr. Gavin. It is troubling that the next communication from the Authority on this issue was NCA's receipt of the public agenda for the Authority's February 2016 meeting including the Notice of Closure item.

Last Friday during a telephone call with Mr. Gavin and Mr. Ott, NCA requested the Authority not include consideration of a notice of closure against NCA on the March agenda but instead work with NCA to meet and hear about NCA's students behind the single graduation rate data point, other critically relevant information about student growth, NCA's progress and expectations for graduation rates for the 2015-16 school year and discussion of continuing plans to increase the 4-year cohort graduation rate currently calculated under the NCLB waiver according to the Authority and NDE. Mr. Gavin insisted that a notice of closure would be considered by the Authority but did express a willingness to consider supporting a request by NCA for the Authority to continue consideration of the agenda item to allow collaboration between the Authority staff and the school.

While we appreciate the potential support of continuance of the item, we are concerned about the uncertainty that will have for families who are looking for certainty as to the availability of this important education option for their students for the 2016-2017 academic year and beyond and for NCA staff who want certainty that their teaching position is not at risk of being eliminated. NCA feels compelled to be responsive to these legitimate concerns and anxieties of its families and staff and move forward without further delay to demonstrate to the Authority why NCA should not be subjected to closure proceedings. Accordingly, NCA hereby requests that you vote down the Notice of Closure and direct Staff to work with NCA on a three year plan for increasing the graduation rate while continuing to effectively serve a significant population of credit deficient students and work with NDE to ensure accountability measures provide adequate consideration of such issues. This opportunity to provide meaningful information relevant to your consideration of issuing such a notice is required under the Nevada Open Meeting Law, Nevada Charter School Law, fundamental principles of due process and the Nevada Administrative Procedures Act. It is fundamental to the stewardship role this Authority plays in

providing and preserving meaningful alternative education opportunities for Nevada's youth. It also is consistent with Mr. Gavin's and Dr. Canavero's representations to the Nevada Legislature, as explained below.

C. Issuing a Notice of Closure with NCA Having Had No Opportunity to Discuss its Successes, Provide Information Relevant to the 4-Year Cohort Graduation Rate Calculated under the NCLB, Anticipated Increased Graduation Rate for 2015-16, and Plans for 2017 with the Authority Violates Nevada Law and Causes Irreparable Harm

The 2014-2015 graduation cohort was made up of 334 students and resulted in a graduation rate of 35.63% as calculated under the 4-year cohort rate under the NCLB. Respectfully, that does not provide a meaningful data point without consideration of all of the relevant information which is required under Nevada law and assurances made to legislators by the Authority in considering the relevant provision of SB 509. NCA's 119 graduates included 12 students who enrolled off-track and caught up and another 5% of students who graduated in less than four years. Our graduation rate for students enrolled with NCA all four years of high school exceeds 70%.

NCA's non-graduates for 2015 included **74.9% who were off-track when they enrolled**. 59 of the non-graduates (27.4%) have enrolled for a 5th year to attempt to graduate and a total of 67.9% of non-graduates are continuing in education (i.e. re-enrolled for 5th year, adult education, or GED program). Of the non-graduates for 2015, **44.7% enrolled with NCA in 12th grade**, 33.5% started with NCA in 11th grade, 16.1% started in 10th grade and only 5.6% started with NCA in 9th grade meaning NCA had less of an opportunity and less time to help these students "catch up." **Six of the non-graduates were enrolled at NCA for one month or less and one student was enrolled at NCA for only 14 days**. In addition, 14 of the students classified as "non-graduates" have enrolled in a post-secondary institution, calling into question if these students are really non-graduates: 12 of these students have enrolled in 4-year college and the other 2 in a 2-year college. Clearly, a single metric such as 4-year cohort graduation rate as calculated under current methodology under NCLB does not come close to providing a full picture of the academic results of NCA or justify closure of a school. The proposed application of this provision of SB 509 in this retroactive manner based on last year's graduation rate is unreasonable and does not have the best interests of Nevada's youth, whom this Authority ultimately serves, as its main focus.²

² The retroactive effect of the Authority's proposed application of SB 509 is also unlawful and should be rejected on that basis alone. "[A] statute has retroactive effect when it takes away or impairs vested rights acquired under existing laws, or creates a new obligation, imposes a new duty, or attaches a new disability, in respect to transactions or considerations already past." *Corp. Bishop, LDS v. Seventh Jud. Dist. Ct.* (2016 WL 348038). "Substantive statutes are presumed to only operate prospectively, unless it is clear that the drafters intended the statute to be applied retroactively. *Sandpointe Apartments v. Eighth Jud. Dist.*, 129 Nev., Adv. Op. 87, 313 P.3d at 853. As the Supreme Court has instructed, "[e]lementary considerations of fairness dictate that individuals should have an opportunity to know what the law is and to conform their conduct accordingly; settled expectations should not be lightly disrupted." *Id.* at 265, 114 S.Ct. 1483. "Courts will take a 'commonsense, functional' approach' in analyzing whether applying a new statute would constitute retroactive operation. *PEBP*, 124 Nev. at 155, 179 P.3d at 553 (quoting *Immigration & Naturalization Serv. v. St. Cyr*, 533 U.S. 289, 321, 121 S.Ct. 2271, 150 L.Ed.2d 347 (2001)). "Central to this inquiry [is] 'fundamental notions of fair notice, reasonable reliance, and settled expectations.'" *Id.* at 155, 179 P.3d at 554. The Authority's threat to consider issuance of a notice of intent to close a high school having provided NCA no opportunity for any meaningful dialogue or consideration of relevant and material information and based

NCA is engaging some of our most at-risk youth in Nevada, who come to NCA behind in credits, sometimes significantly behind and in the middle of what should be their senior year. NCA knows that based on the way the State of Nevada currently calculates the 4- year cohort graduation rate under NCLB, accepting these students means NCA's graduation rate will be considerably lowered.

Yet NCA accepts these students, re-engages them, helps many of them achieve graduation and others of them to be able to successfully pursue their GED or other equivalent alternative high school credential. To paraphrase Senate Education Committee Chair, Senator Becky Harris, in the 2015 Legislative Session, **we should be celebrating their work** not threatening to shut down schools serving these students. NCA submits that the Authority staff did not consider any of this information when it proposed adding NCA to the agenda for a possible notice of closure.³ NCA sees its mission as helping the students it serves to maximize their potential, whether that student came to them in kindergarten or six months before that student's expected graduation date. It understands the direct correlation between being a high school dropout and becoming caught up in a cycle of poverty, not just for themselves but their potential offspring. Out of its desire to help the students who come to NCA escape this fate, NCA is continuously striving to improve and increase its four-year cohort graduation rate. Toward that end, attached hereto as **Exhibit 6** is the tiered plan NCA put in place to increase NCA's 2016 4-year cohort graduation rate.

Rest assured, NCA is working hard to address this issue. NCA knows exactly where every student stands with regard to graduation, and works individually with each one to get them the support they need. NCA's efforts this year have borne fruit. NCA expects our 2016 four-year cohort grad rate will be significantly higher than 2015's. We welcome the chance to collaborate with the Authority to further improve our efforts.

D. Issuing a Notice of Intent to Close Based on a Single Misleading Data Point, the Calculation of Which Will Significantly Change under the Every Student Succeeds Act (ESSA) is Arbitrary and Capricious and in Violation of Law

Calculation of graduation rate under ESSA will be changed in order to avoid punishing schools that are effectively serving students with mobility issues and/or credit deficiencies. For example, ESSA requires that a student attend a school for at least 50% of a full academic year before that student can be counted in the school's 4-year graduation cohort.

This policy change acknowledges that it does not make sense for a school that has had a student for a short period of time to be held accountable for the student not graduating on-time. A student who

solely on last year's 4-year cohort graduation rate calculated under the NCLB and based on a statute that became effective *after* completion of the 2015 school year is precisely the circumstance in which courts prohibit such retroactive application of a new rule of law. Such action violates fundamental notions of fair notice, reasonable reliance and disrupts settled expectations for not just the schools but their staff and the thousands of students they serve.

³ This is an abuse of discretion and it would be arbitrary and capricious and in violation of law to issue a notice of closure with the Authority having no information other than this single data point to trigger issuance of the notice, and no opportunity for the school to present its information and discuss changes that have occurred since last year's graduation, progress already seen and future changes planned.

transfers to a new school but does not stay enrolled at the new school *for at least half of the school year* and has exited without a diploma must be counted for purposes of graduation cohort calculations for the school that they either were “enrolled for the greatest proportion of school days while enrolled in grades 9 through 12; or in which the student was most recently enrolled (prior to the transfer).” Nevada has the flexibility to increase this minimum attendance period above 50% of the academic year. It would make sense that this minimum period be the same as the definition of “Full Academic Year” used for which students are included in a school’s proficiency testing cohort. In many states this definition is 90% of the school year. Analyzing NCA’s 2015 graduation class according to the new ESSA graduation rate methodology provides additional important information for this dialogue. As noted above, **6 of the non-graduates were enrolled at NCA for 1 month of less – one student was enrolled for only 14 days!** Is this student’s performance a reflection of NCA or their prior school when the student is only enrolled 14 days? ESSA accounts for this mobility. The following chart shows the impact on graduation rate if the provisions of ESSA were applied to NCA’s 2015 graduation class based on three potential minimum attendance periods required before including the student in the cohort: 1) students enrolled for less than 50% of a school year, 2) students enrolled for less than 75% of a school year, and 3) students enrolled less than 90% of a school year:

Scenario	# of student removed from cohort	# Graduates	# Non-graduates	Graduation Rate
Original	N/A	119	215	35.63%
ESSA 50% cut-off	63	119	152	43.91%
ESSA 75% cut-off	86	119	129	47.98%
ESSA 90% cut-off	89	119	126	48.57%

It is important to note that under ESSA, Nevada must account for students enrolled at least 50% of the school year but has the flexibility to increase the percentage. As you can see, this single factor which does not even account for the credit deficient students NCA is serving, significantly increases the graduation rate by as much as nearly 13 percentage points. This is the type of information you and the NDE should be evaluating to ensure you do not threaten schools with closure when really they should be celebrated for serving our most vulnerable youth.

Issuing a notice of closure to NCA under these circumstances violates the spirit and intent of SB 509, the express language and a primary purpose of the legislation creating this Authority, and harms student school choice and some of our most vulnerable youth in Nevada.

E. Nevada Law Mandates this Authority Collaborate with Charters and Foster a Climate in which all Charters Can Flourish; Issuing a Notice of Intent to Close Under these Circumstances Violates that Statutory Mandate

NRS 385.509 provides that the Authority shall serve “as a model of the best practices in sponsoring charter schools and foster a climate in this State in which all charter schools, regardless of sponsor, can flourish.” Toward that end, the Authority obtained a performance evaluation from NACSA which reported its findings to this Board in January 2016. NACSA’s recommendation included that the Authority “ensure schools up for renewal receive performance information in a timely manner” and provide schools the opportunity to “meet with staff to discuss the underlying data and how this data is

used to calculate their ratings” and revision of the organizational performance framework so that it “describes what information the Authority will review and how the Authority will verify schools’ compliance with the requirements.” **Exhibit 4**, Excerpts of NACSA Report to Authority (Jan. 2016). Information required to be provided for a school relative to its request for renewal also must be made available to a school before it is included on a public meeting agenda for consideration of issuance of a notice of closure.

Respectfully, NCA submits that the Authority has failed to provide relevant performance information in a timely manner to NCA on this proposed action item or to meet with NCA to discuss the underlying data and how this data is used prior to escalating this matter to the most severe of sanctions for a charter school – issuance of a notice of closure. All this would have required was a delay in putting this item on the agenda to allow for some meaningful interaction and dialogue between the school and its authorizer – the collaboration mandated by Nevada law, fundamental due process and fairness, and good policy to foster an environment where charters can flourish.

Senate Bill 461 in the 2015 Nevada Legislative Session proposed individualized graduation plans for credit deficient students, as introduced by the Senate Education Committee Chair, Becky Harris. During legislative committee hearings on that bill, NCA raised the issue of graduation rate calculations penalizing schools serving credit deficient students. The Committee requested that NCA work with staff and stakeholders to add language to address the issue. Although SB 461 did not pass, this issue carried through to two bills that did pass: Senate Bill 509 and Senate Bill 460 the latter of which established an alternative framework for schools with student populations made up of 75% of students from certain populations. SB 460 also has an automatic closure provision and this is where part of the relevant dialogue from SB 461 carried over.

In the April 3rd minutes of the Senate Education Committee, Chair Harris raised the concern about section 4 of SB 460 (automatic closure provision) which ties back through the testimony to the closure provision related to graduation rates. Senator Harris stated that many charter schools had expressed concerns about their charter contracts being automatically revoked as provided by statute and that, while she believed an automatic-closure provision was an important safeguard, “it is evident this policy does not account for the big picture in all circumstances.” **Exhibit 5**, Minutes from April 3, 2015 Senate Education Committee hearing.

Moments later during that same committee meeting, Senator Harris spoke to SB 461 and emphasized the importance of schools serving students who “have dropped out, been expelled, been declared habitual disciplinary problems or others with similarly difficult situations.” She stated that “[r]eaching out to and embracing these kids is critical. It is tough; it is often unsuccessful, but it sometimes works. Moreover, when it does work, lives are changed.” *Id.*

She then recognized the problem that NCA faces here – “that the Nevada School Performance Framework and the charter school automatic-closure provision do not recognize the circumstances of these students adequately.” Although she referenced a high school whose population is made up entirely of these students, the policy also applies to NCA which serves a large population of these students in its high school. As Senator Harris stated, even if a school gets a third of these students to graduation and “even if it takes an extra year or two, should we close that school, or should we celebrate its good work?” *Id.* at 29.

"At the very least, the work should be given a further look, and the measuring stick we use to assess these schools should consider the larger circumstances of their students and missions." Statement of Senator Harris, April 3, 2015 Senate Committee on Education Minutes at 29. While ultimately the Nevada Legislature required the Alternative Performance Framework apply only to schools whose population is at least 75% comprised of certain identified at-risk youth, the same policy concerns carried over into the discretionary closure provision of SB 509.

When Senator Harris expressed that with respect to this issue and the automatic closure provision in SB 460, groups with concerns would be heard later in the hearing, Dr. Steve Canavero, then Deputy Superintendent for Student Achievement for NDE (now State Superintendent) testified "The NDE can create, through regulation if necessary, a flexible graduation rate requirement." *Id.* at 30. Dr. Canavero made that same representation to NCA's counsel during the legislative session suggesting that new statutory language to address this issue was unnecessary because the issue would be addressed under existing law.

Both the Nevada legislators and NCA relied upon those representations. Mr. Gavin's insistence that this Authority consider issuing a notice of closure to NCA without any opportunity to address these very issues violates the law, the Legislature's intent and is arbitrary and capricious and an abuse of discretion under SB 509 and NRS 233B. The May 27, 2015 Minutes from the Assembly Committee on Education hearing on Senate Bill 509 reflect the State's commitment to create policy that would not punish charter schools for serving credit deficient or at-risk youth. **Exhibit 6**, Assembly Committee on Education Minutes, May 27, 2015 at p.36. NCA presented testimony to the Assembly Committee at that hearing confirming its understanding from discussions with Mr. Gavin and then Chairwoman of the Authority, Kathleen Conaboy, that the 60% graduation rate identified in SB 509 for discretionary closure "would, in fact, take into account data that demonstrates the fact that there is student growth; the school is performing as expected" and required under the performance framework and the charter, and "would not create circumstances where a school would be closed" based on an unreliable graduation rate that does not disaggregate data to account for schools serving credit deficient students. *Id.*

Mr. Gavin was in attendance and heard all of NCA's testimony at this hearing. His own testimony confirmed the Authority wanted to make "thoughtful and judicious decisions" and to that end, make sure "anything above that 'three strikes and you are out' level is discretionary on the part of the Authority or sponsor board so that we can take into account those kinds of nuances." *Id.* at 38. By nuances, Mr. Gavin was referencing schools serving "alternative populations" not being "subject to an arbitrary catch-22 situation." Mr. Gavin made reference to schools having a "27 or 37 percent graduation rate" and not being "classified as an alternative" school and asserted "we need to ensure that we are looking very carefully at why that is and if there is some kind of compelling explanation, certainly taking that into account, but also holding any school that is at that level accountable." *Id.* Mr. Gavin's well-articulated and thought provoking testimony should be heeded by this Authority in these present proceedings. Look carefully at the population of students being served by this school and the positive impact NCA is having on their lives before you take an action that will deprive them of this meaningful alternative education program.

We request that the Charter Authority Board fulfill Director Gavin's and Dr. Canavero's assurances to the Nevada legislature and to NCA by doing the following:

March 24, 2016

Page 10

1. Protecting students who are credit deficient and who need access schools that can meet their educational needs and whose mission it is to serve them.
2. Protecting students, who are already in a state of crisis, from being placed at greater risk by avoiding signaling to them and the staff who staff who serve them that their school is at risk of closure before their school has an opportunity to engage with the Authority prior to a decision being made to place it on the public agenda for possible notice of intent to close.
3. Examining all relevant information, the students being served, student growth and multiple metrics before issuing a notice of closure on one data point.
4. Allowing for time for a school to improve its measurements before issuing a notice of intent to close
5. Recognizing that accountability is in period of change including Nevada and the Federal government's changes to the graduation rate calculation.

Should you have any questions, or require any additional information, please do not hesitate to contact me at (775) 473-4513 or Laura.Granier@dgslaw.com.

Sincerely,

/s/Laura K. Granier

Partner

for

DAVIS GRAHAM & STUBBS LLP

LKG:js

cc: Nevada Connections Academy Board of Directors
Steve Werlein, Principal
Steve Canavero, Superintendent

EXHIBIT 1

EXHIBIT 1

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
(775) 687 - 9174 · Fax: (775) 687 -9113

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.

Annual Framework Designation			
Designation	NSPF		Authority Rating
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	≥95
Exceeds	≥75 and <95
Adequate	≥50 and <75
Approaches	≥25 and <50
Unsatisfactory	≥5 and <25
Critical	<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 2

EXHIBIT 2

NEVADA STATE PUBLIC CHARTER SCHOOL AUTHORITY

January 4, 2016

Nevada Department of Education
700 East Fifth Street
Board Room
Carson City, Nevada

And

Nevada Department of Education
9890 South Maryland Parkway
Board Room
Las Vegas, Nevada

MINUTES OF THE MEETING

BOARD MEMBERS PRESENT:

In Las Vegas:

Kathleen Conaboy
Robert McCord
Adam Johnson
Elissa Wahl
Marc Abelman
Nora Luna
Melissa Mackedon

In Carson City:

BOARD MEMBERS ABSENT

AUTHORITY STAFF PRESENT:

In Las Vegas:

Patrick Gavin, Director, State Public Charter School Authority
Joan Jurgensen, Education Program Professional, State Public Charter School Authority
Nya Berry, Education Programs Professional, State Public Charter School Authority
Traci House, Business Process Analyst, State Public Charter School Authority

In Carson City:

Angela Blair, Education Program Professional, State Public Charter School Authority
Kathy Robson, Education Program Professional, State Public Charter School Authority

the school had 98% of their students who were two years behind their cohort using their third party assessment. Director Gavin said that assessment was not valid in the state. Dr. Kotler said she was assured if the students were tested using the state's methods it would confirm SSCS's results.

Director Gavin noted SSCS had been open for 12 years and the results over the last 6 years showed the school was academically underperforming. Ms., Saenz noted the school was considered high-achieving prior to the change of the academic framework it was measured by. Director Gavin said he had no further questions.

Director Gavin said the organizational and academic underperformance was evident the school should cease operation upon the completion of the 2015-2016 academic year.

Chair Johnson asked if SSCS had any additional closing statements. Ms. Saenz said she had no further closing statements. Dr. Kotler said she was sad for the future of the students who attend SSCS who may be left with no degree. Mr. Russell said SSCS appreciated the time given by the SPCSA during the hearing. Director Gavin said the SPCSA had no further arguments.

Chair Johnson then called for Authority deliberation regarding the testimony of both the SPCSA staff and representatives of SSCS.

Member Wahl referenced the CREDO study that stated that a school's first year results were indicative of how they would do over the course of their charter. She then stated the school was in its 12th year and the results still were not acceptable.

There was no further deliberation and Chair Johnson called for motion to consider the revocation of SSCS's written charter agreement.

Member Wahl motioned for the Nevada State Public Charter School Authority to revoke the written charter agreement between it and Silver State Charter School upon the completion of the 2015-2016 academic year. Member Luna seconded. There was no further discussion. The motion passed unanimously 7-0.

Agenda Item 6 - NACSA SPCSA Evaluation presentation

Elisa Westapher and Carly Bolger spoke to the Authority regarding the NACSA Authorizer Evaluation they completed on behalf of the SPCSA. Ms. Westapher and Ms. Bolger detailed the process and findings of their report. The findings contained in the report were: The Authority has developed an application template that is focused on identifying new schools that are likely to drive improved outcomes for students. The Authority's charter school contract is comprehensive and clearly outlines the responsibilities of each party. The Authority has established strong academic, financial, and organizational performance frameworks. The Authority's board is knowledgeable and committed to implementing high- quality authorizing practices.

The new school application has been recently revised to better align with the Authority's needs but the evaluation process needs to be further developed and more consistently implemented. Key Recommendations included: Articulate process for reviewing applications including who reviews the application, the criteria for review, a capacity interview, and a consensus discussion among all evaluators. Develop, train, and orient staff on the application review process to ensure that all reviewers are prepared to conduct a thorough review of all sections of the application. The interview panel should, when possible, include all members of the evaluation team for a particular application. Continue to engage

external reviewers to ensure that all evaluation teams have the appropriate expertise to thoroughly evaluate all sections of the application.

While the Authority has established systems for monitoring school performance, it has not implemented such systems with fidelity. Key Recommendations included: monitor schools' academic, financial, and organizational performance consistently and effectively. Implement mid-term site visits, and develop a site visit protocol and formal process for providing feedback to schools after the visit. Develop a plan for accelerating the transfer of remaining schools to the new contract and allocate additional capacity to address the backlog. Issue a guidance document, similar to the performance framework guidance document, which explains the new renewal process.

The Authority has established strong academic, financial, and organizational performance frameworks, but it is not effectively communicating with schools about their performance on these frameworks. Key Recommendations included: provide schools with an annual assessment of their academic, financial, and organizational performance; ensure schools up for renewal receive performance information in a timely manner. Develop a plan for addressing schools' concerns and confusion regarding the implementation of the academic performance framework; particularly, the opportunity for schools to meet with staff to discuss the underlying data and how this data is used to calculate their ratings. Revise the organizational performance framework so that it describes what information the Authority will review and how the Authority will verify schools' compliance with the requirements.

The Authority's reporting requirements for schools, mandated by the state and based on their status as the LEA, have the potential to erode the autonomy granted to charter schools. Key Recommendations included: Clarify and codify the Authority's LEA responsibilities and communicate this information to schools. Maintain focus on preserving school autonomies when considering new regulations or requirements. Identify ways to reduce duplicative reporting requirements from state agencies. Develop a plan for differentiated oversight as permissible by law.

The Authority needs to significantly expand its capacity in order to meet its obligations as an LEA and to ensure high quality authorizing. Key Recommendations included: Engage in a new strategic planning process as soon as possible, and ensure that the process includes diverse stakeholders such as board members, staff, and school leaders. Given the limitation on hiring new staff, clearly define and communicate roles and responsibilities to all current and future staff members. Provide management support and/or coaching to the director to enable him to fully leverage his existing staff. Implement an evaluation system for the director.

Ms. Westapher and Ms. Bolger then detailed the next steps both short and long term for the Authority and staff. Short-term steps included: Fully operationalize the application decision-making process, develop plan for expanding Authority capacity to continue to implement high-quality authorizing practices and monitor schools' academic, financial, and organizational performance consistently and effectively. Long-term steps included: engage in strategic planning process, develop annual reporting for schools' academic, financial, and operational standing, mid-term visits for charter schools and differentiated autonomy/compliance for schools based on performance.

Discussion continued between the Authority and NACSA regarding the final authorizer evaluation report, which included next steps, monetary/budgeting concerns, further evaluations in the future and how to best implement some of the recommendations contained within the report. NACSA identified the "internal battle of authorizing versus LEA functions" that continues to be a point of confusion for staff and the Authority as being one of the most pressing issues facing the SPCSA and its board. Ms. Bolger said that

EXHIBIT 3

EXHIBIT 3

**MINUTES OF THE
SENATE COMMITTEE ON EDUCATION**

**Seventy-Eighth Session
April 3, 2015**

The Senate Committee on Education was called to order by Vice Chair Scott Hammond at 4:09 p.m. on Friday, April 3, 2015, in Room 2149 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4412 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Exhibit A is the Agenda. Exhibit B is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Becky Harris, Chair
Senator Scott Hammond, Vice Chair
Senator Don Gustavson
Senator Mark Lipparelli
Senator Joyce Woodhouse
Senator Moises (Mo) Denis
Senator Tick Segerblom

STAFF MEMBERS PRESENT:

Todd Butterworth, Policy Analyst
Risa Lang, Counsel
Jan Brase, Committee Secretary

OTHERS PRESENT:

Kathleen Vokits, President elect, Nevada State Association of School Nurses
Deborah Pontius, Nevada State Association of School Nurses
Virginia Williamson
Sheila Story
Mary-Sarah Kinner, Las Vegas Sands
Leslie Pittman, American Federation for Children
Michael Chartier, The Friedman Foundation for Educational Choice
Jennifer Hammond, Advocates for Choice in Education of Nevada
Rebecca Franks, Advocates for Choice in Education of Nevada
Tiecha Ashcroft

Ms. Durish:

A cohesive plan is meant to address statewide initiatives and allow for a wide range of providers. Any plan would be aligned with statewide goals to ensure teachers and leaders who are most in need of professional development are guaranteed opportunities.

Chair Harris:

I will close the hearing on S.B. 474.

Senator Hammond:

I will open the hearing on S.B. 460.

SENATE BILL 460: Revises provisions related to the statewide system of accountability for public schools. (BDR 34-1108)

Senator Becky Harris (Senatorial District No. 9):

Senate Bill 460 addresses an alternative school performance framework and can be considered a companion bill to S.B. 461, which proposes individual graduation plans. Many charter schools have expressed concerns about their charter contracts. The contracts may be automatically revoked as provided by statute. While I believe this automatic-closure provision is an important safeguard to ensure we have high quality charter schools in Nevada, it is evident this policy does not account for the big picture in all circumstances.

SENATE BILL 461: Provides for an individual graduation plan to allow certain pupils enrolled in a public high school to remain enrolled in high school for an additional period to work towards graduation. (BDR 34-1091)

Senator Harris:

The NDE and others are aware of the plight of schools serving at-risk children. In fact, this past year the NDE convened a work group to examine the issue and make policy recommendations. As I understand it, the work group has recommended the creation of an alternative framework to measure the performance of schools serving at-risk kids. However, it is limiting their definition of these schools to very specific entities. They are adjudicated youth schools, credit recovery schools, and behavior continuation schools. While I agree that all these schools should be considered at-risk, I believe the door should be opened for the inclusion of additional, but narrowly defined, public schools. For example, there are charter schools specifically targeting their

services to students who have washed out of the local school district. These are students who have dropped out, been expelled, been declared habitual disciplinary problems or others with similarly difficult situations. Reaching out to and embracing these kids is critical. It is tough; it is often unsuccessful, but it sometimes works. Moreover, when it does work, lives are changed.

The problem for these schools is that the Nevada School Performance Framework and the charter school automatic-closure provision do not recognize the circumstances of these students adequately. If a high school has a student population made up entirely of students who have washed out of the school district and if that high school is able to get a third of its students through to graduation, even if it takes an extra year or two, should we close that school, or should we celebrate its good work?

At the very least, the work should be given a further look, and the measuring stick we use to assess these schools should consider the larger circumstances of their students and missions.

Language on page 2, section 2 of S.B. 460 requires the State Board of Education to adopt regulations prescribing an alternative performance framework for the evaluation of schools serving certain populations, as well as the manner in which those schools will be included in the statewide accountability system. Section 3 requires a public school wishing to be rated under the alternative framework to work with the local school board, or the charter school sponsor, to apply to the State Board for approval. Section 3 also prescribes eligibility requirements for the applicant schools. In short, 75 percent of the school's students must fall into one of five at-risk categories.

It is important to note these categories do not include students we traditionally think of as at-risk, English Language Learners, special education students and those living in poverty. To be considered at-risk for the purpose of changing a school's performance framework, a student must have been expelled, formally deemed a habitual disciplinary problem, an adjudicated delinquent, held back at least twice or subject to other very serious issues.

Section 4 amends the automatic-closure provision. Currently, a charter school is automatically closed if it receives three consecutive annual ratings at the lowest possible level. Senate Bill 460 changes this to any 3 years during the 6-year term of a charter contract. However, the school's sponsor may take other

action if the school has shown ongoing improvement. These actions could include extending the period of evaluation, creating or continuing a plan for improvement, or changing terms of the charter contract. Section 4 also authorizes an underperforming charter school to request assistance from its sponsor and requires the sponsor to provide such assistance.

Section 5 is responsive to a recommendation made by the NDE work group on the alternative framework. Because of the implementation of new criterion-referenced tests this school year, it prohibits the NDE from considering a school's rating for the 2014-2015 school year only.

Rather than punish, we need to encourage schools that take on our most difficult-to-educate students. This will not happen as long as our school performance framework provides no consideration to schools drawing three-quarters of their student bodies from the ranks of those who could not be educated elsewhere.

Senator Denis:

How many schools would fit these criteria?

Steve Canavero, Ph.D. (Deputy Superintendent for Student Achievement, Department of Education):

It would be difficult to provide a definite number, approximately 20 schools would immediately qualify, based on students' behavioral profiles.

Senator Harris:

We are in discussions with groups who have concerns about section 4 of S.B. 460, and we will hear from some of them today.

Dr. Canavero:

The NDE can create, through regulation if necessary, a flexible graduation rate requirement.

Senator Hammond:

One of the strengths of the American education system is the ability to give students many opportunities to succeed.

EXHIBIT 4

EXHIBIT 4



NACSA AUTHORIZER EVALUATION

MEASURE, ACT, IMPROVE

**NEVADA STATE PUBLIC
CHARTER SCHOOL
AUTHORITY**

ELISA WESTAPHER

CARLY BOLGER

JANUARY 4, 2016

3 PERFORMANCE-BASED ACCOUNTABILITY

The Authority has established strong academic, financial, and organizational performance frameworks, but it is not effectively communicating with schools about their performance on these frameworks.

Key Recommendations:

- Provide schools with an annual assessment of their academic, financial, and organizational performance; ensure schools up for renewal receive performance information in a timely manner.
- Develop a plan for addressing schools' concerns and confusion regarding the implementation of the academic performance framework; particularly, the opportunity for schools to meet with staff to discuss the underlying data and how this data is used to calculate their ratings.
- Revise the organizational performance framework so that it describes what information the Authority will review and how the Authority will verify schools' compliance with the requirements.

Does the authorizer have effective systems for establishing and monitoring school performance expectations and for holding schools accountable as necessary to protect student and public interests?

EXHIBIT 5

EXHIBIT 5

**MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON EDUCATION**

**Seventy-Eighth Session
May 27, 2015**

The Committee on Education was called to order by Chair Melissa Woodbury at 3:22 p.m. on Wednesday, May 27, 2015, in Room 3142 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4406 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda (Exhibit A), the Attendance Roster (Exhibit B), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/App/NELIS/REL/78th2015. In addition, copies of the audio or video of the meeting may be purchased, for personal use only, through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

Assemblywoman Melissa Woodbury, Chair
Assemblyman Lynn D. Stewart, Vice Chair
Assemblyman Elliot T. Anderson
Assemblyman Derek Armstrong
Assemblywoman Olivia Diaz
Assemblywoman Victoria A. Dooling
Assemblyman Edgar Flores
Assemblyman David M. Gardner
Assemblyman Pat Hickey
Assemblywoman Amber Joiner
Assemblyman Harvey J. Munford
Assemblywoman Shelly M. Shelton
Assemblywoman Heidi Swank

COMMITTEE MEMBERS ABSENT:

Assemblyman Chris Edwards (excused)

Minutes ID: 1369



If the school were not penalized for taking credit-deficient students, the graduation rate would be in the high 80 percent. It has dropped significantly when you do not properly disaggregate the data to account for the students who come in credit deficient and, therefore, do not graduate in the traditional four years.

The point is that we all want these students to get back engaged in the system and to graduate. I think we all agree that we want policy that encourages that. We think that is what is intended in everything that is going on. We think that is intended and clear in the performance framework that is allowed under this statute under existing law. It is set forth in the charter contracts. That provides the appropriate guidance and discretion for the regulator to work with the school and make sure there is absolute accountability, but it also ensures that you are encouraging, not discouraging, schools from reengaging these credit-deficient students and making sure they do graduate as quickly as possible.

The reference in section 27, subsection 1, paragraph (e), mentions having below a 60 percent graduation rate for the preceding year. My understanding from discussions with Director Gavin and Chair Conaboy of the Authority is that should be a reliable, valid number, meaning it would, in fact, take into account data that demonstrates the fact that there is student growth; the school is performing as expected, required, and negotiated under the performance framework set forth under the charter contract, but it would not create circumstances where a school would be closed simply because it is serving credit-deficient students and that data has not been disaggregated so the graduation rate is not necessarily reliable.

Assemblyman Elliot T. Anderson:

I have a question for legal counsel. Section 47 contains a definition of highly qualified. It cites to 20 U.S.C. § 7801. The highly qualified term has a statement that basically cites back to our public charter school law to look for the definition. I think there is a *renvoi* problem, which means that it is sending it back unopened. It is a French term for a conflict that goes into a circular fashion. What is the definition of highly qualified, since we are using it? It cites back to our law, but we are citing back to the federal law. It is confusing to me.

Karly O'Krent:

You are correct—it does cite back to the state law. In this circumstance, if you think it would benefit the bill to specify the federal definition of highly qualified in existing statute, we can do that, rather than referring to the federal law.

Assemblyman Elliot T. Anderson:

I would appreciate that. I am not clear what it means. I think you are creating a great research project for a judge's law clerk if we leave it this way. It would be good to spell it out.

Chair Woodbury:

Is there anyone else who would like to testify as neutral to S.B. 508 (R2)?

Peggy Lear Bowen, Private Citizen, Carson City, Nevada:

I suggest in any of these situations that you, as a Legislature, define in legislation that you bring home the boards and commissions over which you have no control and not answerable to as an elected body or elected individuals, and that you bring back the boards and commissions that set all sorts of standards, including what highly qualified was. As a teacher for 35 years, when highly qualified came into play, it was left up to Washoe County to define highly qualified. At that point in time, highly qualified meant that you had met certain standards in order to teach at the at-risk or impoverished schools. It was dissected and bisected and trisected more down to the level of local control. They let the locals determine what they needed as a highly qualified teacher. You should have one standard definition for all the things.

One of the things that took place is that we had boards and commissions setting standards for students and for teachers. In 2007, my friend was going to have to relinquish her teaching license to the state. She was a highly qualified teacher at that time, but the highly qualified definition had changed to passing the Praxis test. I still think it is incumbent on the State of Nevada to investigate the Praxis company for fraud and for damages because of what they did by having a separated test—knowledge on one side, which teachers were passing right and left for a secondary education license. The second part of the test is where the Praxis testing company made money. My friend failed this by two to six points. After 12 attempts, she was to relinquish her license. On the thirteenth attempt two weeks later, after I suggested investigating and suing the Praxis company, she miraculously was able to pass the Praxis test by 45 points, the same section she had failed by 2 to 6 points. It turned out that the president of the Praxis company was sitting in the back of the room when I suggested to the board that the company be investigated. I never said her name but said that she had failed 12 times. Please keep Nevada under the control of your legislative body and under the control of an elected board, such as the State Board of Education, and no other body.

Chair Woodbury:

Is there anyone else who would like to testify as neutral? [There was no one.]
Are there any closing remarks?

Patrick Gavin:

I want to thank this body for your indulgence in this conversation. I appreciate the thoughtful questions and feedback. We think this is a really strong bill. I want to emphasize that Senate Bill 460 deals with the question of how to hold a school that is serving a large alternative population accountable. We have taken pains in working with sponsor of that bill, Senator Harris, Chair of the Senate Committee on Education, to ensure that these elements are aligned. To the degree that we did have a school that was serving an alternative population, they would not be subject to an arbitrary catch-22 situation. We do not want to do that; we want to make sure that we are making thoughtful and judicious decisions. To that end, we have also endeavored to make sure that anything above that "three strikes and you are out" level is discretionary on the part of the Authority or sponsor board so that we can take into account those kinds of nuances. I would submit, however, that in cases where a school has a 27 or a 37 percent graduation rate and is not classified as an alternative school, that is the kind of thing I think we would all agree is not acceptable and that we need to ensure that we are looking very carefully at why that is and if there is some kind of compelling explanation, certainly taking that into account, but also holding any school that is at that level accountable.

Chair Woodbury:

I will close the hearing on S.B. 509 (R2). Is there anyone here for public comment?

Peggy Lear Bowen, Private Citizen, Carson City, Nevada:

From yesterday's *Reno Gazette-Journal*, this is a letter to the editor that was titled "Tax drama over schools not warranted." It is from David Barrett of Reno.

What is all this hoopla about Nevada's education being among the worst in the nation? Not so, says the "Report Card on American Education, 19th Edition" published by the American Legislative Exchange Council, dated 2014. Have we all been misled? So what is all this drama about raising taxes because Nevada is supposedly among the worst in education in the nation? Nevada is ranked number 12.

In 2011, you all worked very hard to create a better situation than you had found. You gave all sorts of direction. Yesterday during testimony we heard that the Washoe County School District only has one school that is a one-star school left in its entire system. Let the corrections you have made come to fruition in their complexity. If you want to have public charter schools play a more definitive role, please keep them in terms of being embraced by the school districts that want to embrace them to give additional schools with

EXHIBIT 6

NCA is striving to improve and increase our 2015 four-year cohort graduation rate. Before the start of the 2015-16 school year NCA put in place a tiered plan to increase NCA's 4-year cohort graduation rate:

1. Additional Support - NCA gives additional personalized support to the students who are on track to graduate. Each has an individual graduation plan, and they meet regularly with counselors and teachers with the goal of on time graduation.
2. Credit Retrieval Initiative - Students who are 2-6 credits behind have a faculty mentor who helps them focus on completing their remaining courses. NCA has piloted a credit recovery program, and many of these students will work in summer school to continue to earn credits to graduate. About 10% of the 2016 cohort is in this category.
3. Student conferences & Academic Supports: Students who are more than 6 credits behind will likely not graduate on time. These students are behind because of prior schooling not NCA. Regardless, NCA accepts these students and provides additional support including meeting frequently with administrative and counseling staff to review their credit recovery plans and diligently work toward the goal of graduation. About 16% of our 2016 cohort are in this category.
4. Increased Data Tracking - About 22% of the cohort has withdrawn, and have been officially categorized by the state of Nevada as dropouts. Some, however, have enrolled in adult education or GED programs, and some may have enrolled in other schools. The school is increasing their data tracking efforts but even with the best efforts it is difficult to track a highly-mobile, at-risk population of students. This group is counted as dropouts.

NCA is working hard to address this issue. Given the high transiency rate common across the state and the increasing number of credit deficient students enrolling at NCA, these numbers may change by the end of the school year; however, NCA knows exactly where every student stands as of now with regard to graduation, and works individually with each one to get them the support they need. NCA's efforts this year have borne fruit. NCA expects our 2016 four-year cohort grad rate will increase from 2015. We welcome the chance to collaborate with the Authority to further improve our efforts.

NEVADA STATE PUBLIC CHARTER SCHOOL AUTHORITY

March 25, 2016

Legislative Council Bureau
2135
Carson City, Nevada

And

Grant Sawyer
4400
Las Vegas, Nevada

MINUTES OF THE MEETING

BOARD MEMBERS PRESENT:

In Las Vegas:

Adam Johnson
Elissa Wahl
Nora Luna
Melissa Mackedon
Kathleen Conaboy
Robert McCord

In Carson City:

None

Teleconference:

Marc Abelman

BOARD MEMBERS ABSENT

AUTHORITY STAFF PRESENT:

In Las Vegas:

Patrick Gavin, Director, State Public Charter School Authority
Joan Jurgensen, Education Program Professional, State Public Charter School Authority
Nya Berry, Education Programs Professional, State Public Charter School Authority
Traci House, Business Process Analyst, State Public Charter School Authority

In Carson City:

Jessica Hoban, Administrative Services Officer 2
Angela Blair, Education Program Professional, State Public Charter School Authority
Kathy Robson, Education Program Professional, State Public Charter School Authority
Danny Peltier, Management Analyst, State Public Charter School Authority
Tanya Osborne, Administrative Assistant III, State Public Charter School Authority

LEGAL STAFF PRESENT:

In Las Vegas:

Mr. Ott, Deputy Attorney General
Ed McGaw, Deputy Attorney General

AUDIENCE IN ATTENDANCE:

In Las Vegas:

Attendance Sheet Attached

In Carson City:

Attendance Sheet Attached

CALL TO ORDER; ROLL CALL; PLEDGE OF ALLEGIANCE; APPROVAL OF AGENDA

Member McCord moved for a flexible agenda. Member Conaboy seconded. The motion carried unanimously.

Agenda Item 1 – Public Comment #1

Chair Johnson wants to remind the public of the three minutes rule for discussion.

In the South, Cara Hendricks spoke in support of Nevada Virtual Academy regarding items #5 and #6. Did not feel the high stakes review should happen. She said #6 should not happen because there was not enough notice given. Melissa Bartshe spoke in support of Nevada Virtual Academy. LeeAnn Taylor spoke in support of Nevada Virtual Academy. Lori York spoke in support of Nevada Virtual Academy. Deanna Davis spoke in support of Nevada Virtual Academy. Kaitlyn May spoke in support of Nevada Virtual Academy. Cristabel Guthrie spoke in support of Nevada Virtual Academy. Karen Guthrie spoke in support of Nevada Virtual Academy. Terrasa Robinson spoke in support of Nevada Virtual Academy. Lisa Racine spoke in support of Nevada Virtual Academy. William Morris spoke in support of Nevada Virtual Academy. Samantha Morris spoke in support of Nevada Virtual Academy. Glenn T. Raitt spoke in support of Nevada Virtual Academy. Kimberly King and her daughter spoke in support of Nevada Connections Academy. Rhiannon Bree spoke in support of Nevada Virtual Academy. Kim Fortune spoke in support of Nevada Virtual Academy. Stacy Devoid spoke in support of Nevada Virtual Academy. Mr. Werlein Werlein spoke in support of item #6 for Nevada Connections Academy. Tessa Rivera spoke in support of Nevada Connections Academy. Edward Bevilala spoke in support of all charter schools. Laura Granier spoke in support of Nevada Connections Academy, item #6. Kara Hendricks spoke in support of Nevada Virtual Academy. Kimberly King spoke in support of her two

daughters for Nevada Connections Academy. Leslie Caldwell spoke in support of Nevada Virtual Connections Academy. Debbie Joseph spoke in support of Nevada Virtual Academy. Sonya Rish spoke in support of all charter schools and how important they are. Hesikya Cogman spoke in support of all charter schools. Chrystal Thompson spoke in support of Nevada Virtual Academy. Tina Zavalza spoke in support of Nevada Virtual Academy. Jennifer Tenney spoke in support of Nevada Connections Academy. Dawn Atkerson spoke in support of Nevada Virtual Academy. Kay Comstock spoke in support of Nevada Virtual Academy. Carrie Anne Harrington spoke in support of Nevada Virtual Academy. Kevin Rodela spoke in support of Nevada Virtual Academy. Elicia Montgomery spoke in support of Nevada Virtual Academy. Jessica Dethmers spoke in support of Nevada Connections. Jordan Torres spoke in support of Nevada Connections. Ruben Murilo spoke in support of Silver State Charter School. Jessica Rivera spoke in support of Nevada Connections Academy. Marnie Pariser spoke in support of Nevada Virtual Academy. Kelly Gaez spoke in support of Nevada Virtual Academy. Anne Schwartz spoke in support of Nevada Virtual Academy. Jonathan Henboy spoke in support of all charter schools. Ben Childs spoke in support of Nevada Virtual Academy. Catherine spoke in support of Nevada Virtual Academy. Naomi Nevers spoke in Support of Nevada Virtual Academy. Vinica Sulezich spoke in support of Nevada Virtual Academy. John Vettle spoke in support of Nevada Virtual Academy. Alicia Crowe spoke in support of Nevada Virtual Academy. Jeffery E. Sanchez spoke in support of Nevada Connections Academy. Mindi Dagerman spoke in support of Nevada Connections Academy. Gerald Schuler spoke in support of Nevada Virtual Academy. Linda Lord spoke in support of Nevada Virtual Academy. Deborah Gehr spoke in support of Silver State Charter School. Marissa Delgado, NCA Board Member for Nevada Connections spoke in behalf of the school to stay open. Board member Tessa Rivera for Nevada Connections Academy spoke in support of Nevada Connections.

Member Wahl said that the parents are not homeschooling the students. While they are learning from a home environment, homeschooling is a separate law and something she lobbied for to keep separate. She said thank you for coming to talk and please stay involved.

Agenda Item 4 - Consideration of Settlement of Appeal of Closure of Silver State Charter School

Deputy Attorney General Greg Ott represented SPCSA staff and Deputy Attorney General Ed McGaw represented the SPCSA board. Mr. Ott began with history of the Silver State matter up to the current meeting. He said the school had been in negotiations with the SPCSA and had come to agreement on the framework of an agreement. He said the SSCS board had conditionally approved the settlement agreement with amendments that had been "red-lined" in document before the Authority today. Mr. Ott said the mechanics for a reconstitution of the SSCS board and the framework for improvement at the school had been discussed between SPCSA staff and the SSCS board and it would be up to the Authority to decide if the changes offered to the settlement agreement by the SSCS board would be accepted, revised, or denied outright. Mr. Ott also explained how the receiver, who would be appointed by the courts, would take over operations of the school. He said the receiver would have the right to review all operations at the school including staffing and leadership until the SSCS board was reconstituted.

Mr. Ott discussed the amendments that had been offered by the SSCS board to the original settlement agreement. He said the SSCS board did not want to be penalized for undisclosed financial issues that may have been undiscovered during the previous investigation and asked for immunity to any and all existing financial problems prior to the date of the signing of the settlement agreement. The school would still be responsible for financial problems moving forward, but would not be penalized for any issues prior to the receiver beginning its work.

Mr. Ott said another change the SSCS made to the agreement was in relation to the targeted graduation rates. SSCS had a reported graduation rate of 0% for the 2014-2015 school year as measured by the Nevada Department of Education. SSCS contends its self-reported graduation rate to be around 25%, which Mr. Ott noted was also far below the graduation standard set by the SPCSA and NDE. In the original settlement agreement offered by the Authority, SSCS would have to raise its graduation rate to 50% in the first two years and exceed 60% in the third year. SSCS felt those targets were too aggressive and didn't want to set the school up for failure with an unattainable goal that would force the school to close after three years. Instead they amended the agreement with graduation rate goals of 35% after two years and 45% after the third year.

Mr. Ott explained the third amendment offered by SSCS which would allow for the school to be considered under the Nevada Alternative Framework should that framework be established by NDE and the school accepted into it. SSCS reasoning for this addition was it wanted to allow the receiver the freedom to enter the alternative framework if the school felt their model would qualify. Mr. Ott said he didn't believe this was an attempt to evade the graduation rate; instead it was another avenue the school could pursue if that avenue became available.

Ryan Russell, council for SSCS, thanked the Authority for working with SSCS. Bill Petersen, Snell and Wilmer attorney representing SSCS joined Mr. Russell in testimony regarding the settlement agreement. Mr. Russell said he agreed largely with what Mr. Ott said in his presentation, but further clarifications were needed on a few points. Mr. Russell said the receiver would be allowed to have top-down decision making for the school since it was a statutory requirement. He said the school had determined the graduation rates it offered by recognizing that a reorganization of the school wouldn't happen overnight and that it would take time to raise the graduation rates to an acceptable level. Mr. Russell said SSCS fully understood that the rates they had offered were well below what was considered acceptable by the SPCSA and the state, but SSCS felt it would be unable to reach those goals in the timeframe needed and would cause the school to fail before it had a chance to fully implement its corrective actions. Mr. Russell added that consideration for Agenda Item 6 on the agenda should not be heard as long as negotiations continue between the SPCSA and SSCS.

Member Conaboy asked for clarification regarding item 7 in the settlement agreement, specifically the use of the word etcetera in relation to legal requirements of SSCS. Mr. Ott said the reasoning for the use of that term was to include any and all legal requirements for the school that may not have been considered at the time of the settlement agreement. Mr. Russell agreed with Mr. Ott's explanation of the term. Member Conaboy also asked for clarification regarding the receiver's ability to make "top-down" employment decisions and how SB 509 affected its role in being able to make those decisions. Mr. Ott said the receiver would be able to make employment decisions, but SB 509 would not supersede existing parameters of employment decisions that had been implemented with individual employees. He said certain individuals have different employment agreements and SB 509 would allow for the receiver to act as the governing board in accordance with existing employment agreements already in place. Mr. Russell added that in the event the board is reconstituted, its first act would be to hire an administrator but up until that point the receiver would have to operate within the employee agreements already in place.

Member Conaboy asked for clarification regarding the alternative school framework. Mr. Ott said that if the school entered into the alternative framework, that would take the place of the three star rating requirement as reported by the Nevada School Performance Framework. Director Gavin said the alternative framework was required to be created by the State Board of Education and the school would need to be serving the students defined in that framework once it has been created and approved by the State Board of Education. Member Conaboy asked if the rating system is statutorily created or if that was

going to be decided by the State Board of Education. Director Gavin said the framework was mandated in statute but the rating system is not included in the statute and the draft language in the framework does not currently contemplate a rating. Member Conaboy said that due to the questions regarding what the alternative framework will actually look like in reality, she would prefer the settlement agreement to say "or" regarding the rating of the Nevada School Performance Framework and the Alternative Framework so it was clear that if the school did not qualify for the alternative framework it would be contemplated in the settlement agreement and there would be clarity about what measure to use.

Member Mackedon asked if the inclusion of the alternative framework language in the settlement agreement would require the SPCSA to recommend SSCS to the alternative framework once it is implemented because she did not want the Authority's to be obligated to something if it felt SSCS should not be referred for consideration in the alternative framework. Mr. Ott said it was his understanding that there would be no obligation for the Authority to refer SSCS to the alternative framework if it felt SSCS would not meet the qualifications for acceptance, but the Authority would need to operate in good faith and not withhold a reference for the school into the alternative framework if it felt it would be accepted. Member Luna added that she felt the definition of the graduation rate, as approved by NDE, should also be included in the settlement agreement.

Mr. Russell said his understanding of the definition of graduation rate was that it was a term of art and that was how the school considered it when it contemplated it in the settlement agreement. He also added regarding the potential for inclusion into the alternative framework and why it was added in the settlement agreement was for the receiver to have the maximum options it could to improve the school's performance and if that meant applying for the alternative framework, it should be included in the settlement agreement so it was clear to both the Authority and the SPCSA what, and what not, they receiver could do to turn the school around. He said the language does not guarantee three Authority do anything other than operate in good faith regarding the school's option to enter the alternative framework.

Member Wahl said she was not satisfied with 35% and 45% graduation rates and felt those were low. Chair Johnson said those targets were significantly lower than what this board would consider acceptable, so he wondered how the school came to agreement on those targets. Mr. Russell said the goal of this agreement was for continued improvement of the school and that would require significant change at the school, which may be more difficult than envisioned. He said the targets were set to allow SSCS to succeed in improvement with the eventual goal of raising the graduation rate to state-accepted levels. Member Mackedon asked if the school considered that students will not have to reach a "cut score" for the next three years of End of Course exams which technically meant all of the students would pass the EOC's when setting the graduation targets. Christina Saenz, governing board president of SSCS, said the school did not take that into consideration. She said the school wants to make sure the goals and targets the school is expected to make are reasonable and attainable.

Member Conaboy asked Director Gavin how the ESSA waiver and the 4-year cohort rate would affect the school's graduation targets. Director Gavin said the ESSA defers significant discretion to the states and technically only apply to schools that are eligible for Title I money. So, it was possible that the state would give graduation rates to schools within the ESSA and have a separate calculation for graduation rates for schools outside of it, which should be considered when discussing SSCS's graduation targets in the settlement agreement.

Member Mackedon reiterated that the school should have a higher graduation rate target since pupils would not have to meet a cut score with their End of Course exams, thus making it easier for the school to achieve a higher graduation rate. She said she would not be able to support the 35% and 45% targets the

school had offered in light of the End of Course exam information she references earlier. Director Gavin said he wanted to emphasize how much he appreciated the thoughtfulness of the SSCS board in regard to the targets in the settlement agreement. He appreciated the school's realistic approach to setting its targets and he felt the school did not set the rates as a way to lower their expectations. He said he would ask the Authority to authorize SPOCSA staff to continue discussions regarding the graduation matter so that both could come to a mutual agreement that would allow for the school to succeed and maintain the Authority's responsibility to ensure students attend high quality charter schools.

Chair Johnson said he appreciated the sentiment but it would be difficult for the Authority to sign off on an agreement where 65% of the students would not graduate. Mr. Russell said he hoped the Authority would approve the agreement with SSCS and allow for SPCSA staff and representatives of the school to continue to work to find a graduation target that was amendable to both sides so that parents of SSCS pupils would have clarity regarding the future of the school. Member McCord said he appreciated the comments made by Mr. Russell and added that he also respected SSCS's honesty and good faith with regard to the partnership between it and the Authority.

Chair Johnson asked Authority members what they would consider to be reasonable graduation rate targets which could be offered to SSCS for consideration. Member Mackedon said she felt it would be reasonable to say the school should meet a target no lower than 60% in the third year. She said it would set a bad precedent to allow a school to have such a low rate and continue operations. She said she would like to see 45% graduation rate after year two and 60% after year three.

Director Gavin, the Authority, and Mr. Russell discussed the timelines for what graduation rates would be considered in the agreement. Director Gavin said the rates for a school year are not typically released until after the start of the next school year which could complicate matters if the school were unable to reach its targets because it may force the school to be closed midyear which would be a burden on parents that he would not like to see happen. He said that is why he wanted to be very clear which years would be considered for the agreement.

Member Conaboy moved for the Authority to adopt the settlement framework with modifications including adjusting the graduation rate in 5A to 45% and in 5B to 60% and further that the requirement that the graduation rate is calculated and verified by NDE; clarifying the 5A graduation class to be considered would be the 2017-2018 graduation class and/or the 2014 cohort, whichever is deemed appropriate by NDE and the 5B graduation class be the 2018-2019 school year and/or the 2015 cohort; clarification of the option for the school to be considered under the Alternative Framework, but the Authority is under no obligation to recommend the school be considered if the Authority feels the school would not qualify for the Alternative Framework as defined by NDE. Member McCord seconded. There was no further discussion. The motion passed unanimously.

Mr. Russell would like #6 pulled from discussion today and not considered since council and Authority is working on this together. Director Gavin would like the board to remove #6 on the agenda Notice of Closure.

Chair Johnson moved for the board to remove item #6 from the agenda, Member Mackedon seconded. The motion passed unanimously.

At 12:43 Chair Johnson asked for a lunch break.

The meeting reconvened at 1:38 pm

Agenda Item 6 - Consideration and possible action to direct Authority staff to issue Notices of Closure pursuant to NRS 386.535

Laura Granier and Steve Werlein, principal, spoke on behalf of Nevada Connections Academy. Chair Johnson said the board received a continuance on agenda item 6. Director Gavin said this was a previous continuance for Nevada Virtual Academy and also to Nevada Connections Academy. He would like to have more conversations with the schools that are on the agenda and work on making sure kids are getting what they need.

Mr. Werlein showed slides to the authority regarding the educational success NCA had achieved during the course of its charter. Ms. Granier added the school was requesting that before the Authority places an item regarding its intent to issue a Notice of Closure on the agenda, the schools be allowed to meet with Authority staff to present the data, before having it become public in an open meeting setting. Mr. Werlein said their school had a high mobile population in 2013 -2014. 59% of students were new to the school and 68% enrolled after 9th grade. Within the 2015 graduating class, NCA found that 90% of the student population was on track to graduate; 10% were off track to graduate. 60% of students enrolled only enrolled for one year or less. Member McCord said it would be useful for the school to include the N number and the range when presenting the graduation rates so observers of the data would be able to better understand the central tendency of the data and provide a full picture of the students who may come to the school as credit deficient. Director Gavin said it may be useful for the school to breakout the number of students who were credit deficient by amount of credits missing as to better understand how far behind each student was as opposed to lumping them all in the same group. Member Conaboy added she felt Director Gavin's request of the school confirmed Ms. Granier's earlier point that these discussions should take place prior to a public meeting so both sides would be able to determine what data would be considered.

Ms. Granier said the school would like to be notified if it's on the agenda in the future and for it not to be a surprise and she also asked how the Authority can rely on one set of data validated by NDE when the authority is saying the school is not valid with their data.

Director Gavin said the Authority is not aware of a report from NDE or analysis with this information. Ms. Granier said the school has used the information validated by NDE and that is what Mr. Werlein is using today. Mr. Werlein said the school uses the Nevada Department of Education's Big Horn portal for the cohort rate. Director Gavin asked if there was a validation by NDE stating this information is available. Mr. Werlein said he is not familiar with that kind of report but not opposed to 3rd party validation. Mr. Werlein said when students enter in 9th grade they had a 79% rate of graduating on time and that 77% of full year academic 12th graders graduated in 2015. He said the current state accountability frameworks are poor barometers of virtual school performance. Virtual schools should be held accountable for their actual performance rather than for the performance of the school from which their students came. The 4 year cohort graduation rate is not a comparison of how other schools perform. Mr. Werlein said a student who came to the school 14 days before graduation should not be taken into consideration for the cohort graduation rate because the school has no opportunity to make a difference in their life. He said the board and authority needs to make judicious and thoughtful decisions for the school and make compelling evidence. Mr. Werlein said the school looked at 2015 data for the graduating class, the cohort rate was 36%, ESSA 44%.

Member McCord commented that when a school works with challenging populations it can be challenging but he said he was an advocate of no child left behind and the school needs to work on the graduation rate because it was in the best interest of the pupils.

Mr. Werlein said NCA had implemented mentoring and some other initiatives to help increase the graduation rate. Member Conaboy asked Deputy Attorney General McGaw if she were permitted to comment on NCA because of her representation of K-12 Inc., which is the contracted EMO for Nevada Virtual Academy. Mr. McGaw said that was fine as long as it's not related to anything regarding Nevada Virtual Academy. Member Wahl asked if NCA only addressed the graduation issues because they received the Notice of Closure or when they saw the graduation rate was low. Mr. Werlein said they have been making changes before the Notice of Closure. Member Mackedon asked Director Gavin if the performance framework calls for a comparison of schools. Director Gavin said the standard performance framework, which includes schools who have not had a recently approved amendment request where the comparison is added into their framework, does not have comparison data and there is no student growth comparison either. Mr. Werlein said NCA looks closely at where the student was located when they enroll in the school. Ms. Granier said NCA had been looking to improve prior to the implantation of SB509.

Director Gavin asked Mr. Ott if there is currently regulation regarding whether or not a sponsor is to conduct the process of revocation or terminating a contract. Referring to NAC 386.330, Mr. Ott said yes there is a regulation regarding the question from Director Gavin. Director Gavin confirmed this was the process the Authority was following which is referenced in R035-14A section 44.

Member Wahl said two attorneys earlier agreed that the graduation rate is confirmed by NDE. She then asked what Nevada Connections graduation rates were in years 2012, 2013, and 2014. Ms. Granier said Mr. Werlein would be able to answer that question but it would not be based on a single 4 year cohort graduation calculated under the NCLB.

Director Gavin read from his notes of the testimony he gave regarding SB509 before the Assembly Committee on Education during the 2015 Legislative session. He said there was voluminous public comment and Ms. Granier was one of the participants who testified in neutrality to SB509 as appeared before the committee. He said Ms. Granier testified that the graduation rate was not reliable because it did not consider credit deficiency in the rating.

Director Gavin then read his testimony from that hearing: "I want to thank this body for your indulgence in this conversation. I appreciate the thoughtful questions and feedback. We think this is a really strong bill. I want to emphasize that Senate Bill 460 deals with the question of how to hold a school that is serving a large alternative population accountable. We have taken pains in working with sponsor of that bill, Senator Harris, Chair of the Senate Committee on Education, to ensure that these elements are aligned. To the degree that we did have a school that was serving an alternative population, they would not be subject to an arbitrary catch-22 situation. We do not want to do that; we want to make sure that we are making thoughtful and judicious decisions. To that end, we have also endeavored to make sure that anything above that "three strikes and you are out" level is discretionary on the part of the Authority or sponsor board so that we can take into account those kinds of nuances. I would submit, however, that in cases where a school has a 27 or a 37 percent graduation rate and is not classified as an alternative school, that is the kind of thing I think we would all agree is not acceptable and that we need to ensure that we are looking very carefully at why that is and if there is some kind of compelling explanation, certainly taking that into account, but also holding any school that is at that level accountable."

Member Wahl asked Mr. McGaw if she could find Director Gavin's testimony as compelling evidence. Mr. McGaw said yes, it could be considered compelling evidence. Ms. Granier said the context of the testimony regarded using a calculation under NCLB which the Legislature gave discretion to agencies. Ms. Granier then asked if Jafeth Sanchez, governing board president of NCA, if she could be permitted to speak via teleconference.

Ms. Sanchez said she was very concerned about what the Authority had said about the Notice of Closure. She said there had not been an opportunity to discuss all the problems that the Authority had with the schools regarding the data and graduation rates. Ms. Sanchez took issue with Authority members asking questions regarding the Nevada School Performance Framework and wondered how an Authority member would be unclear about the very tool that measures the school's successes or failures.

Ms. Granier said the application of SB509 was being applied retroactively and should not be applied retrospectively unless such intent is clearly manifested by the Legislature as determined by the United States Supreme Court. She said NCA has been open for nine years and have complied with legal requirements and have actively participated in meeting the accountability standards set by the state. She also noted there was no notice for the 60 day Notice of Closure and the Authority did not give a trigger for the 60% graduation rate. She said upon the completion of the last meeting between the Authority and NCA, the school was left with the understanding that it was in good standing. She would like the Authority to give the school some time to improve on the graduation rate and compromise to come up with a reasonable amount of time in order to not receive a Notice of Closure.

Member Wahl contended the school's use of the term retroactively because all data is retroactive. Mr. Ott asked Ms. Granier if she believed the graduation rate is not clear and Ms. Granier agreed with the observation. Mr. Ott asked if Ms. Granier felt the hearing to determine whether or not to issue a notice of closure is a contested case and requires a hearing under NRS 233b.032 and administrative penalty. Ms. Granier felt that was not a need for a 233b hearing for this item, but that the Authority should present the information in a consistent manner with enough time for the school to have discussions with SPCSA staff regarding the data used.

Member Conaboy felt it would be good practice to pick up the phone and talk with someone about the problems in their school and the Authority should give the schools prior notice before affecting the lives of over 6000 kids and their families. She said most of this conversation could have happened before today.

Member Conaboy said she would abstain on all four votes for this agenda item. The Authority discussed continuing the agenda item at another meeting. Member Conaboy asked what the benefit of a continuation would be since council will come back with the exact same information that was heard today. Mr. McGaw said if there was substantial evidence the Authority would still be able to move forward with issuance of the notice of intent of closure at a future meeting. Member Conaboy said the Authority doesn't have rules in place yet and the Authority in the process getting the regulation approved and should continue with that prior to issuing notices of closure.

Member Wahl said the Authority does have laws and contracts in place and that it needs to do right by the students and the parents since the graduation rate was below what was considered acceptable. Chair Johnson said he felt there should be some form of closure so the school and SPCSA staff would understand how to move forward. He said he would be willing to entertain a motion that would be a denial of the issuance of notice of closure or a motion for a continuance. Ms. Granier said she understands what Member Wahl is saying and the school wants to work with staff to reach a reasonable

end that would do right by the students of Nevada Connections Academy. Director Gavin said staff contends with the idea that there were no rules governing the process that was being implemented. He said if the Authority were to delay this decision, there would always be another opportunity for a school to raise concerns regarding “rule making” thus the Authority would never be able to make high stakes decisions in which they have been statutorily mandated to do.

Member Wahl moved for continuance of the Notice of Closure for Nevada Connections. Member Abelman seconded the motion. Chair Johnson asked for a roll call vote:

Member McCord – Nay

Member Conaboy – Abstaining in protest to this process

Member Mackedon – Aye

Member Luna – Nay

Member Abelman – Aye

Member Wahl – Aye

Chair Johnson – Nay

The vote was tied 3 - 3

Chair Johnson asked if there was a different motion that could be considered

Member Conaboy asked Member Wahl what she felt would be accomplished by continuing the item. Member Wahl said she did not want to offer a no vote on that record that would give permission to the schools for low graduation rates. Member Conaboy asked what should be said to parents who were waiting for action before enrolling their children for the upcoming school year. Member Wahl said NCA should say that they are sorry for their school’s poor performance. Chair Johnson asked if there was a different motion that could be offered. Member McCord asked if no action was taken, would the agenda item die. Mr. Ott said without a motion the item would be dead, but the Authority did have the option to remove the item from the agenda. Member McCord said he felt it would be best to remove the item from the agenda.

Chair Johnson said the Authority would remove this from the agenda. Director Gavin asked if it was the Authority’s intent to take no action on only NCA or all Notices of Closure listed on the agenda. Member Conaboy asked if she could vote on items individually or would she have to abstain from the whole agenda item since she was a representative of K-12 Inc. Mr. McGaw recommended that she should abstain from voting on the measure. Member Mackedon felt this conversation would continue at more meetings in the future and would like to make a motion to postpone the entire agenda item 6. Director Gavin said it would be difficult to place the item on the April agenda. Director Gavin said the May agenda would be a more appropriate timeline. Member McCord said he felt the Authority should not have this on the agenda again and recommended removing the item with no future date of hearing and request that all parties continue discussion regarding this matter. Chair Johnson asked Member McCord if he would like the agenda item to be removed for all four schools. Member McCord said he felt all four should be removed from the agenda.

Member McCord moved to remove the agenda item for all four schools in question, Member Mackedon seconded. There was no further discussion and a roll call vote was taken:

- **Member McCord – Aye**
- **Member Conaboy – Abstain**

- Member Mackedon – Aye
- Member Wahl – Nay
- Member Luna – Aye
- Member Ableman – Absent
- Member Johnson - Aye

Vote: 4 Aye, 1 Nay, 1 abstention, Member Abelman was absent

Agenda Item 3 - Consideration of Beacon Academy's July 13, 2015 amendment request pursuant to NAC 386.325

Mr. Ott noted the item being brought before the Authority was through communications he had with council for Beacon Academy. He then gave background information that detailed past Authority hearings for Beacon Academy which subsequently led to the agreement that was being heard now. Beacon Academy had maintained that the school should not be included in a high stakes review because it was not included in the charter contract they had signed.

Discussion between the Authority and Beacon led to the agenda item that was currently being heard. It was decided that the SPCSA staff recommendation for the Authority be for approval of the Authority's academic Framework in relation to Beacon Academy, approve Beacon's amendment request from July 2015 as long the school accepted an amended and restated contract which included the High Stakes Review that they Authority had approved during Beacon's renewal hearing. Staff would then recommend no high stakes review be implemented because STAFF'S REVIEW OF Beacon Academy showed they would pass all term and conditions the High Stakes review required.

Africa Sanchez, attorney representing Beacon Academy, spoke in support of the agreement and said she was very appreciative of the SPCSA's willingness to work with Beacon Academy on this matter.

Member Mackedon motioned to approve staff recommendation for Beacon Academy in light of the school being in good standing as deemed by the Authority and approve the three linked amendment requests of Beacon Academy which were submitted for consideration the July 2015 meeting be approved, contingent upon the school accepting the following condition: The school will execute an amended and restated contract that incorporates language aligning the charter contract and, as counsel deems necessary, the Performance Framework, with the requirements of SB509 and other 2015 bills defining a low-performing charter or traditional public school and clarifying that a school can be placed into breach of contract or served with notice of closure based on persistent underperformance pursuant to those definitions. Member Wahl seconded. There was no further discussion. The motion carried unanimously with Member McCord absent.

Agenda Item 5 - High Stakes Review of Nevada Virtual Academy based on Nevada Virtual's performance, against the Authority's expectations. Possible actions may include contract termination due to persistent underperformance or material breach of the terms and conditions of the charter contract, or a return to good standing. Nevada Virtual must demonstrate substantial progress towards meeting the Authority's academic performance expectations. Substantial progress will be based on the school's aggregate academic performance based on the Authority's academic indicators that will result in closing the gap between baseline (SY12/13) performance and "Adequate," as described in the performance framework within three years.

Member Mackedon motioned for a continuance for item #5, Member Luna seconded. There was no further discussion. The motion passed unanimously and Member Conaboy abstained and Member McCord was absent.

Agenda Item 2 - Approval of the February 26, 2016 and March 9, 2016 SPCSA Board Meeting Minutes

Chair Johnson asked that agenda Item 2 be moved to the April 29th meeting.

Member Conaboy moved for approval of the February 26, 2016 and March 9, 2016 SPCSA Board Meeting Minutes with changes that will be sent to Mr. Peltier upon completion of the meeting and the Authority reserved the right to rehear the minutes at the April 29, 2016 meeting. Member Luna seconded. There was nbo further discussion. The motion carried unanimously.

Member Conaboy asked if there were proposed date for the board retreat. Mr. Gavin said that Mr. Peltier was working on putting together the itinerary including dates and locations and would have information to the Authority as soon as it was available.

Agenda Item 9 - Public Comment #2

Carrie Hendricks council for Nevada Virtual Academy said the school would like more collaboration and more conversations in the future with Authority staff in the future.

Chair Johnson called for a motion to adjourn. Member Mackedon seconded.

The meeting adjourned at 4:06 pm.

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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 PETER ROBERTSON IN SUPPORT OF MOTION FOR TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION

I, PETER ROBERTSON, 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 joined Connections Education in 2009 and am Senior Vice President of School
3 Operations. I was previously Vice President of Education Services at SchoolOne where I led the
4 redevelopment of a web-based student information system. Prior to that, I was Executive
5 Director of Elementary and Secondary Education Product Management & Development for the
6 Educational Testing Service, where I was responsible for the integration and on-going
7 development of System 5, a standards-based, assessment-focused suite of School Improvement
8 products and services. Prior to that, I served as Chief Information Officer for the Cleveland
9 Municipal School District where I was responsible for student assessment, educational research,
10 and program evaluation; and for the management of information technology resources and
11 infrastructure system-wide. I spent four years as a management consultant at McKinsey &
12 Company; worked as an educational researcher at the National Center for Restructuring
13 Education, Schools, and Teaching; and served as a Social Studies and Communication Arts
14 Program teacher at Montgomery Blair High School in Montgomery County, Maryland. I served
15 on the Shaker Heights (Ohio) School Board from 2007 to 2011 and on the Montgomery County
16 (Maryland) School Board from 1983 to 1984. I earned an M.B.A. from Columbia Business
17 School, an M.A. in Educational Administration from Teachers College, Columbia, and a B.A.
18 from Harvard College.

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21 3. On August 11, 2016, I was in attendance at the Ohio State Auditors Conference
22 on Charter Schools, serving as a panelist at the conference.

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24 4. At that conference, I met Patrick Gavin, the Executive Director of the State Public
25 Charter School Association, and had a brief discussion with Mr. Gavin during a session break.

26 5. Mr. Gavin expressed to me that he was under a lot of pressure to close schools.
27 Mr. Gavin stated that a portion of his budget was being withheld from him until he closed
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schools and that if he did not close schools he would need to lay off employees at his agency, the State Public Charter School Authority.

6. During our discussion, Mr. Gavin advised me that he did not have any problems with Connections Education, which is working under contract with Nevada Connections Academy to provide education services and curriculum, but complained that he felt that the Nevada Connections Academy board was being "intransigent."

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 1st day of November , 2016, in _____, _____.



PETER ROBERTSON

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**MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON EDUCATION**

**Seventy-Eighth Session
May 27, 2015**

The Committee on Education was called to order by Chair Melissa Woodbury at 3:22 p.m. on Wednesday, May 27, 2015, in Room 3142 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4406 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda (Exhibit A), the Attendance Roster (Exhibit B), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/App/NELIS/REL/78th2015. In addition, copies of the audio or video of the meeting may be purchased, for personal use only, through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

Assemblywoman Melissa Woodbury, Chair
Assemblyman Lynn D. Stewart, Vice Chair
Assemblyman Elliot T. Anderson
Assemblyman Derek Armstrong
Assemblywoman Olivia Diaz
Assemblywoman Victoria A. Dooling
Assemblyman Edgar Flores
Assemblyman David M. Gardner
Assemblyman Pat Hickey
Assemblywoman Amber Joiner
Assemblyman Harvey J. Munford
Assemblywoman Shelly M. Shelton
Assemblywoman Heidi Swank

COMMITTEE MEMBERS ABSENT:

Assemblyman Chris Edwards (excused)

Minutes ID: 1369



If the school were not penalized for taking credit-deficient students, the graduation rate would be in the high 80 percent. It has dropped significantly when you do not properly disaggregate the data to account for the students who come in credit deficient and, therefore, do not graduate in the traditional four years.

The point is that we all want these students to get back engaged in the system and to graduate. I think we all agree that we want policy that encourages that. We think that is what is intended in everything that is going on. We think that is intended and clear in the performance framework that is allowed under this statute under existing law. It is set forth in the charter contracts. That provides the appropriate guidance and discretion for the regulator to work with the school and make sure there is absolute accountability, but it also ensures that you are encouraging, not discouraging, schools from reengaging these credit-deficient students and making sure they do graduate as quickly as possible.

The reference in section 27, subsection 1, paragraph (e), mentions having below a 60 percent graduation rate for the preceding year. My understanding from discussions with Director Gavin and Chair Conaboy of the Authority is that should be a reliable, valid number, meaning it would, in fact, take into account data that demonstrates the fact that there is student growth; the school is performing as expected, required, and negotiated under the performance framework set forth under the charter contract, but it would not create circumstances where a school would be closed simply because it is serving credit-deficient students and that data has not been disaggregated so the graduation rate is not necessarily reliable.

Assemblyman Elliot T. Anderson:

I have a question for legal counsel. Section 47 contains a definition of highly qualified. It cites to 20 U.S.C. § 7801. The highly qualified term has a statement that basically cites back to our public charter school law to look for the definition. I think there is a *renvoi* problem, which means that it is sending it back unopened. It is a French term for a conflict that goes into a circular fashion. What is the definition of highly qualified, since we are using it? It cites back to our law, but we are citing back to the federal law. It is confusing to me.

Karly O'Krent:

You are correct—it does cite back to the state law. In this circumstance, if you think it would benefit the bill to specify the federal definition of highly qualified in existing statute, we can do that, rather than referring to the federal law.

Assemblyman Elliot T. Anderson:

I would appreciate that. I am not clear what it means. I think you are creating a great research project for a judge's law clerk if we leave it this way. It would be good to spell it out.

Chair Woodbury:

Is there anyone else who would like to testify as neutral to S.B. 508 (R2)?

Peggy Lear Bowen, Private Citizen, Carson City, Nevada:

I suggest in any of these situations that you, as a Legislature, define in legislation that you bring home the boards and commissions over which you have no control and not answerable to as an elected body or elected individuals, and that you bring back the boards and commissions that set all sorts of standards, including what highly qualified was. As a teacher for 35 years, when highly qualified came into play, it was left up to Washoe County to define highly qualified. At that point in time, highly qualified meant that you had met certain standards in order to teach at the at-risk or impoverished schools. It was dissected and bisected and trisected more down to the level of local control. They let the locals determine what they needed as a highly qualified teacher. You should have one standard definition for all the things.

One of the things that took place is that we had boards and commissions setting standards for students and for teachers. In 2007, my friend was going to have to relinquish her teaching license to the state. She was a highly qualified teacher at that time, but the highly qualified definition had changed to passing the Praxis test. I still think it is incumbent on the State of Nevada to investigate the Praxis company for fraud and for damages because of what they did by having a separated test—knowledge on one side, which teachers were passing right and left for a secondary education license. The second part of the test is where the Praxis testing company made money. My friend failed this by two to six points. After 12 attempts, she was to relinquish her license. On the thirteenth attempt two weeks later, after I suggested investigating and suing the Praxis company, she miraculously was able to pass the Praxis test by 45 points, the same section she had failed by 2 to 6 points. It turned out that the president of the Praxis company was sitting in the back of the room when I suggested to the board that the company be investigated. I never said her name but said that she had failed 12 times. Please keep Nevada under the control of your legislative body and under the control of an elected board, such as the State Board of Education, and no other body.

Chair Woodbury:

Is there anyone else who would like to testify as neutral? [There was no one.]
Are there any closing remarks?

Patrick Gavin:

I want to thank this body for your indulgence in this conversation. I appreciate the thoughtful questions and feedback. We think this is a really strong bill. I want to emphasize that Senate Bill 460 deals with the question of how to hold a school that is serving a large alternative population accountable. We have taken pains in working with sponsor of that bill, Senator Harris, Chair of the Senate Committee on Education, to ensure that these elements are aligned. To the degree that we did have a school that was serving an alternative population, they would not be subject to an arbitrary catch-22 situation. We do not want to do that; we want to make sure that we are making thoughtful and judicious decisions. To that end, we have also endeavored to make sure that anything above that "three strikes and you are out" level is discretionary on the part of the Authority or sponsor board so that we can take into account those kinds of nuances. I would submit, however, that in cases where a school has a 27 or a 37 percent graduation rate and is not classified as an alternative school, that is the kind of thing I think we would all agree is not acceptable and that we need to ensure that we are looking very carefully at why that is and if there is some kind of compelling explanation, certainly taking that into account, but also holding any school that is at that level accountable.

Chair Woodbury:

I will close the hearing on S.B. 509 (R2). Is there anyone here for public comment?

Peggy Lear Bowen, Private Citizen, Carson City, Nevada:

From yesterday's *Reno Gazette-Journal*, this is a letter to the editor that was titled "Tax drama over schools not warranted." It is from David Barrett of Reno.

What is all this hoopla about Nevada's education being among the worst in the nation? Not so, says the "Report Card on American Education, 19th Edition" published by the American Legislative Exchange Council, dated 2014. Have we all been misled? So what is all this drama about raising taxes because Nevada is supposedly among the worst in education in the nation? Nevada is ranked number 12.

In 2011, you all worked very hard to create a better situation than you had found. You gave all sorts of direction. Yesterday during testimony we heard that the Washoe County School District only has one school that is a one-star school left in its entire system. Let the corrections you have made come to fruition in their complexity. If you want to have public charter schools play a more definitive role, please keep them in terms of being embraced by the school districts that want to embrace them to give additional schools with

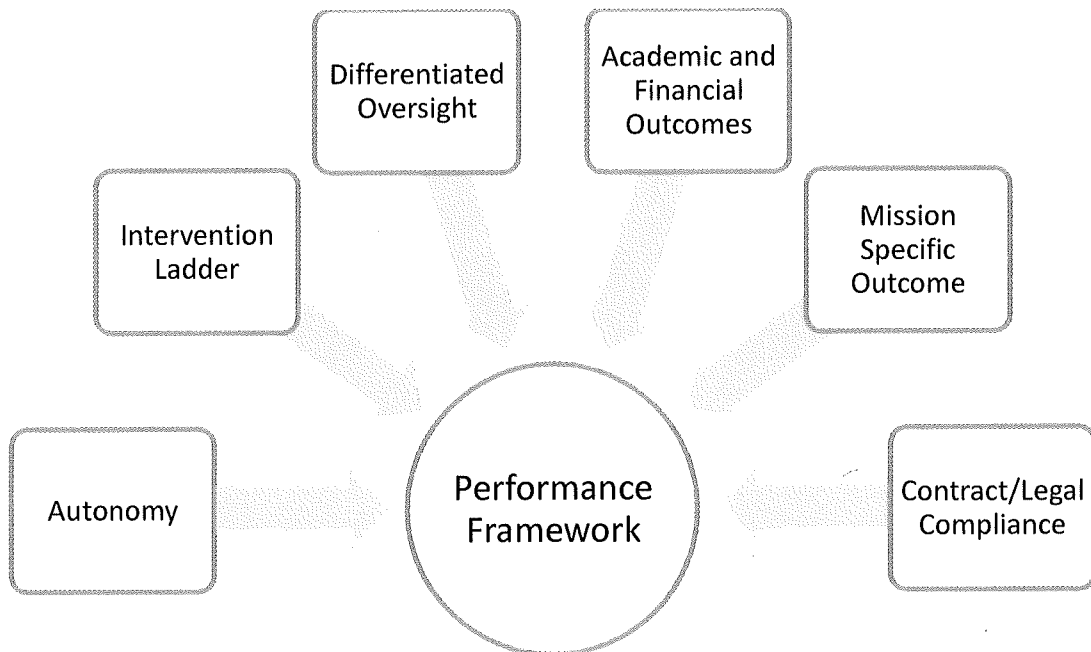
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Charter School Performance Framework

Objective:

To provide charter school boards and leaders with clear expectations, fact-based oversight, and timely feedback while ensuring charter autonomy.

- Clear standards, timely feedback, and maximum transparency
- Objective information for schools, students, and families
- Differentiated oversight including incentives for charter schools designated as quality
- Comprehensive information to guide charter renewal determinations



Section 1: Introduction

This document describes the Charter School Performance Framework, the accountability mechanism for all charter schools sponsored by the State Public Charter School Authority (Authority).

This document provides:

- A conceptual overview of the Charter School Performance Framework (the body of the document); along with
- The specifics regarding Performance Framework implementation, and the academic, financial, organizational and mission specific performance standards.

In addition to establishing performance criteria for charter schools, the Charter School Performance Framework also ensures that the Authority is accountable to charter schools.

The Authority is accountable for implementing a rigorous and fair oversight process that respects the autonomy that is vital to charter school success. This mutual obligation drives the Charter School Performance Framework – a collaborative effort with the common mission of improving and influencing public education in Nevada by sponsoring public charter schools that prepare all students for college and career success and by modeling best practices in charter school sponsorship.

Charter School Performance Framework Authority Obligations

- Clearly communicate standards and expectations to schools;
- Conduct a transparent, consistent, and predictable oversight process;
- Conduct an oversight process that is respectful of schools' autonomy;
- Emphasis on student outcomes rather than compliance and process;
- Provide fact-based feedback to schools and communities indicating where schools stand relative to performance framework standards and expectations.

Section 2: Objective of the Charter School Performance Framework

Through its mission, the Authority has the responsibility to ensure its sponsored schools prepare all students for college and career success and to model best practices in charter school sponsorship.

The Authority acknowledges that charter schools need autonomy in order to develop and apply the policies and educational strategies that maximize their effectiveness.

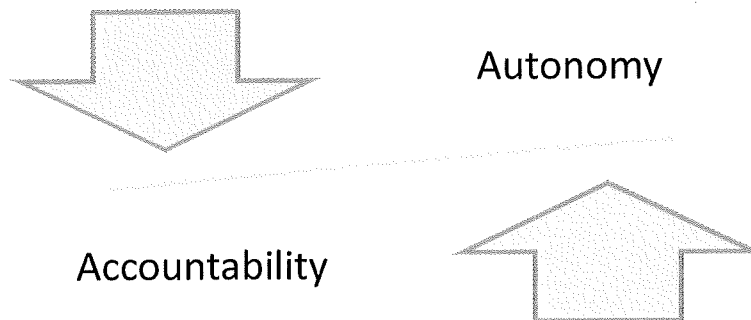
The Charter School Performance Framework balances these two considerations.

The objective of the Charter School Performance Framework is to provide charter school boards and leaders with clear expectations, fact-based oversight, and timely feedback while ensuring charter school autonomy.

In addition to achieving this objective, the Performance Framework should deliver important secondary benefits:

- Incentives for charter schools designated as quality that regularly achieve their academic, financial, organizational, and mission specific performance standards;
- Comprehensive information for data-driven and merit-based charter renewal and contract revocation/termination;
- Differentiated oversight based on each school's performance and maturity;
- Maximum transparency so all stakeholders can understand where charter schools are meeting or exceeding performance standards, and where they are failing to achieve performance standards; and
- Objective information for students and families who want to learn more about the charter schools in their community.

The Performance Framework describes methods that seek the optimal balance between oversight and autonomy, while delivering the secondary benefits important to each targeted stakeholder. The Performance Framework is a dynamic process subject to continuous review and improvement.



Section 3: Performance Framework Components

The Performance Framework provides for the evaluation of schools based on their ability to operate as sound, independent entities that successfully serve all students. The Authority has selected components that strike the balance between easy-to-submit documents and data that provide fact-based insight on school performance.

Routine Year Round Submissions

During the year, schools are required to submit a variety of documents to the Authority and the Department of Education. It is vital that this information is submitted by the given due date. These required submissions are often linked to funding allotments or federal reporting requirements. See the Reporting Requirements Manual for greater detail on each requirement and its function.

Academic, Financial, Organizational and Mission Specific Indicators

Academic – Academic achievement determinations for all schools will be based on student progress over time (growth), student achievement (status), and college and career readiness.

Financial – The near term fiscal health of schools is assessed through four measures: 1) Current Ratio; 2) Unrestricted Days Cash on Hand; 3) Enrollment Forecast Accuracy; and 4) Debt Default. The fiscal sustainability of schools is assessed through four different measures: 1) Total Margin; 2) Debt to Asset Ratio; 3) Cash Flow; and 4) Debt Service Coverage Ratio. These measures will be evaluated quarterly and a profile published annually based on each school's audited financial statements.

Organizational – Defines the operational standards to which a charter school should be accountable to its sponsor and the public. It is designed to treat all schools as though they are the same only in terms of meeting minimum legal and ethical requirements.

Mission Specific – The Authority may, upon request of the governing body of a charter school, include additional rigorous, valid and reliable performance indicators that are specific to the mission of the charter school and complementary to the existing framework measures.

Annual Review

The annual review is a process that compiles data from the routine year-round submissions; academic, financial, organizational and mission specific indicators and oversight to provide an evaluation of school performance. In the annual review, each school will receive an academic and financial profile, an organizational overview of compliance, and a review of mission specific indicators

Annual reviews will be provided to charter school boards and school leaders each fall following the release of the State's star ratings. We are committed to clearly communicating information from the annual review to families, schools, and the public. These reviews will also be posted on the Authority website.

Mid-Term Review

The mid-term review is a process that compiles all annual reviews and provides a three year longitudinal evaluation of school performance. The mid-term review includes a site visit to gather qualitative data that complements the quantitative findings. The results of the mid-term review provide stakeholders with a multi-year analysis of school performance and status of the school related to expectations at time of renewal.

Section 4: Performance Framework Process Description

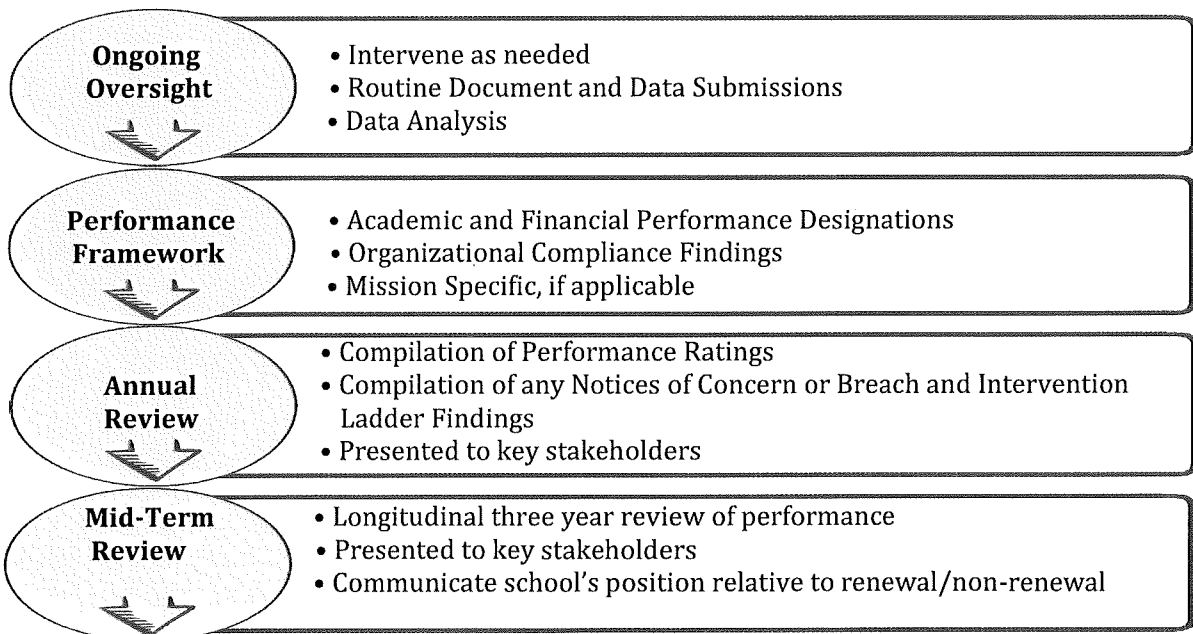
The Authority has studied best practices to develop the Performance Framework process depicted in this flowchart. Throughout the school year, every charter school will submit scheduled documents and data that enable us to assess their compliance with laws and regulations, and their progress in achieving important school milestones.

The routine year round submissions are indicated in the Reporting Requirements Manual.

The Authority believes in conducting its oversight in a manner that is respectful of school autonomy and differentiated based upon charter school performance and maturity. Charter schools with a track record of compliance and performance do not need the same level of oversight as charter schools without such a track record. The Authority's oversight plan includes the opportunity for schools during their first three years of operation, based on compliance and performance, to transition from demonstrated compliance to assumed compliance.

Every charter school will receive an Annual Review and a three year Mid-Term review. The reviews analyze a school's academic, financial, organizational, and mission specific performance along with information collected from the ongoing oversight processes. The parameters of these analyses are indicated in detail in Appendix A, "Detailed Academic Performance Indicator Descriptions", Appendix B, "Detailed Financial Performance Indicator Descriptions", and Appendix C, "Detailed Organizational Performance Indicator Descriptions." The mission specific indicators will be finalized at the beginning of the second school year using the first school year as the baseline.

Site visits afford a sponsor with an opportunity to appreciate a qualitative aspect of the school not directly measured in ways other than observation or personal interaction. The Authority has two types of official site visits: Mid-Term Review and Targeted. The Mid-Term Review site visit is guided by a clear purpose and rubric that complements the quantitative findings. A Targeted site visit is driven by specific circumstances where the frequency and intensity of the visit will depend upon a particular circumstance.



Section 5: Intervention Ladder

Occasionally, the routine Performance Framework process will result in adverse findings. Charter schools may fall out of compliance on important legal or contractual requirements. Academic standards may not be met. Financial sustainability may become an issue. When these situations occur, the Authority may need to intervene.

Level 1: Notice of Concern

A school enters Level 1 upon receiving a Notice of Concern.



Level 2: Notice of Breach

A school enters Level 2 when it fails to comply with a material term or condition of its charter contract.



Level 3: Intent to Revoke

A school enters Level 3 when it fails to meet its requirements or schedule to remedy a Notice of Breach.

All schools begin outside of the intervention ladder and are considered to be in Good Standing. Schools in good standing receive non-intrusive regular oversight and submissions tracking. Schools must meet performance targets and expectations including compliance and maintain open communication with us in exchange for this level of non-intrusive oversight.

Schools can enter Level 1 of the intervention ladder if the Authority receives a verified complaint of material concern, or if regular oversight generates significant questions or concerns. We will communicate with school leaders, parents, and any other necessary stakeholders to verify complaints. We will contact the Board president and school leaders to issue a formal Notice of Concern. The Notice of Concern contains specific actions and due dates required to remedy the concern. Upon remedying the concern, the school returns to Good Standing. If the concern is not remedied in the time allotted, the school progresses to Level 2 of the intervention ladder.

At Level 2, the school is issued a Notice of Breach. The Notice of Breach outlines the actions necessary to cure the breach. A school can enter the ladder at Level 2 if it fails to comply with a material term or condition of its charter contract. Once a Notice of Breach is issued, the Authority monitors the school's implementation of the steps required to cure the breach. Once the school has met the Notice of Breach requirements, they exit from Level 2 and return to Good Standing.

Failure to meet the requirements specified in the Notice of Breach will result in entry to Level 3, charter school revocation/termination review. The review may include additional visits to the school or an in-depth audit to assess financial and organizational health. Schools in Level 3 are at risk of contract revocation/termination. Schools may also progress on the ladder to Level 3 if they receive repeated Notices of Breach in the same school year. Findings from the Intent to Revoke will determine whether a school enters into revocation/termination proceedings or is granted a revised Notice of Breach, returning to Level 2.

In unfortunate cases, data gathered from the Performance Framework process can be used to directly initiate charter school revocation/termination proceedings. The Authority recognizes the severity of this process and will use this right only in the case of persistent shortcomings or a grave incident that threatens the health, safety, or welfare of children.

Section 6: High-Stakes Decisions

The Authority will consider the collective record of a school’s academic, financial, organizational and mission specific performance when making high-stakes decisions, though the academic performance will be the most important factor in most decisions.

Contract Renewal

The Performance Framework provides information necessary for merit-based charter renewal decisions. Decisions will be made in accordance with statute and regulation and based on longitudinal information over a school’s charter term. Once a school is recommended for renewal and approved by the Authority the school will receive a renewal term length of six years as defined by law.

Performance Expectation

- Academic: Schools seeking renewal must be designated “Adequate” or above on the Authority Academic Framework plus receive a three-star rating or above on the Nevada School Performance Framework in the preceding school year.
- Financial: Schools must be rated as financially sustainable.
- Organization: Schools must be considered compliant with the material terms and conditions of its charter contract.

Streamlined Renewal

Schools designated as quality schools by the Authority may qualify for the streamlined renewal process. Quality schools are schools ranked on the Authority Academic Framework as “Exceeds” or “Exceptional” and on the Nevada School Performance Framework as a four or five-star school.

Contract Termination

The following performance outcomes may be cause for revocation/termination of a school’s charter:

- Persistent Underperformance: A school with any combination of “Unsatisfactory” or “Critical” designations on the Authority Framework and two-star or one star ranking on the Nevada School Performance Framework for three consecutive academic reporting cycles.

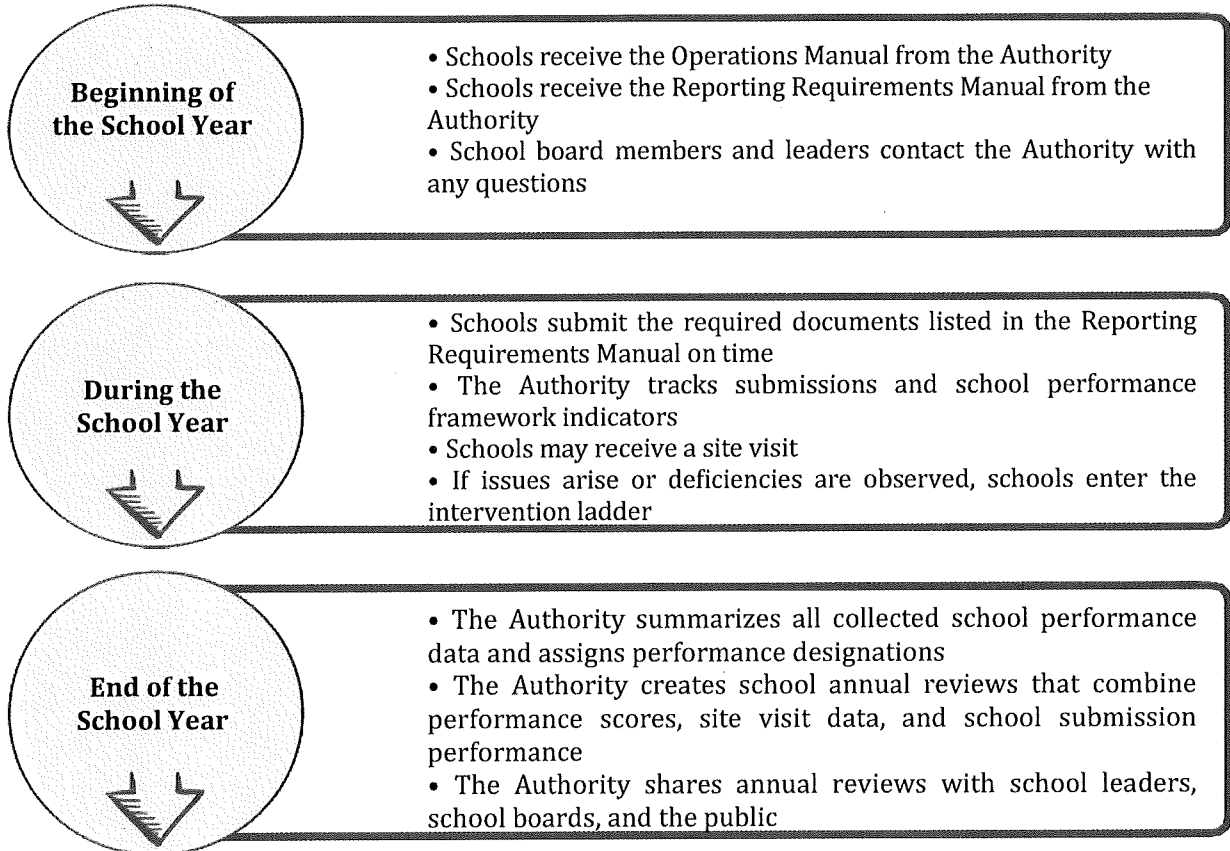
Auto-Termination

As defined by law, starting with the 2013-2014 school year, a charter school must be closed after obtaining three consecutive ratings of one-star on the Nevada School Performance Framework.

Performance Framework Ranking/Designation				
Designation	NSPF		Authority	Timeframe
Contract Renewal Expectation	3-stars or above	AND	“Adequate” or above	Preceding Year
Quality	4-star or 5-star	AND	“Exceptional” or “Exceeds	Preceding Year
Contract Termination	Any combination of 1-star or 2 star	AND	Any combination of “Unsatisfactory” & “Critical”	Three consecutive years
Auto-Termination	1-star			Three consecutive years starting in 2013-2014

Section 7: Performance Framework Timeline

The Performance Framework is implemented according to an annual timeline. The goals of the timeline: a) to set clear expectations for the Authority interaction with schools; while b) standardizing the oversight process.



Schools should contact the Authority at any time for additional support on and information about meeting any of the Performance Framework components.

Appendix A: Detailed Academic Performance Indicator Descriptions

Designations			Points awarded for designation
Quality	Exceptional	EX	97.5
	Exceeds	EC	85.5
Meets Standard	Adequate	AD	62.5
Does Not Meet Standard	Approaches	AP	37.5
	Unsatisfactory	U	15
	Critical	C	2.5
	Missing or not applicable	NA	

Designations		Minimum score for designation	Maximum score for designation
Quality	EX	95	100
	EC	75	94.9
Meets Standard	AD	50	74.9
Does Not Meet Standard	AP	25	49.9
	U	5	24.9
	C	0	4.9

Indicator	Growth	Status	
Weight	60.00%	40.00%	

Elementary

Indicator	Growth	Status	
Weight	60.00%	40.00%	

Middle School

Indicator	Growth	Status	College & Career Readiness
Weight	40.00%	30.00%	30.00%

High School

2.1 Student Progress Over Time (Growth)

2.1.a Are schools making adequate progress based on the school’s Median Student Growth Percentiles in reading?	
Exceptional:	$\geq 95^{\text{th}}$ percentile
Exceeds:	$\geq 75^{\text{th}}$ percentile and $< 95^{\text{th}}$ percentile
Adequate:	$\geq 50^{\text{th}}$ percentile and $< 75^{\text{th}}$ percentile
Approaches:	$\geq 25^{\text{th}}$ percentile and $< 50^{\text{th}}$ percentile
Unsatisfactory:	$\geq 5^{\text{th}}$ percentile and $< 25^{\text{th}}$ percentile
Critical:	$< 5^{\text{th}}$ percentile

2.1.b Are schools making adequate progress based on the school’s Median Student Growth Percentiles in math?	
Exceptional:	$\geq 95^{\text{th}}$ percentile
Exceeds:	$\geq 75^{\text{th}}$ percentile and $< 95^{\text{th}}$ percentile
Adequate:	$\geq 50^{\text{th}}$ percentile and $< 75^{\text{th}}$ percentile
Approaches:	$\geq 25^{\text{th}}$ percentile and $< 50^{\text{th}}$ percentile
Unsatisfactory:	$\geq 5^{\text{th}}$ percentile and $< 25^{\text{th}}$ percentile
Critical:	$< 5^{\text{th}}$ percentile

2.1.c Are schools making adequate growth based on the percentage of students meeting AGP in reading?	
Exceptional:	$\geq 95^{\text{th}}$ percentile
Exceeds :	$\geq 75^{\text{th}}$ percentile and $< 95^{\text{th}}$ percentile
Adequate:	$\geq 50^{\text{th}}$ percentile and $< 75^{\text{th}}$ percentile
Approaches:	$\geq 25^{\text{th}}$ percentile and $< 50^{\text{th}}$ percentile
Unsatisfactory:	$\geq 5^{\text{th}}$ percentile and $< 25^{\text{th}}$ percentile
Critical:	$< 5^{\text{th}}$ percentile

2.1.d Are schools making adequate growth based on the percentage of students meeting AGP in math?	
Exceptional:	$\geq 95^{\text{th}}$ percentile
Exceeds:	$\geq 75^{\text{th}}$ percentile and $< 95^{\text{th}}$ percentile
Adequate:	$\geq 50^{\text{th}}$ percentile and $< 75^{\text{th}}$ percentile
Approaches:	$\geq 25^{\text{th}}$ percentile and $< 50^{\text{th}}$ percentile
Unsatisfactory:	$\geq 5^{\text{th}}$ percentile and $< 25^{\text{th}}$ percentile
Critical:	$< 5^{\text{th}}$ percentile

2.1.e Using Adequate Growth results, are schools meeting AGP in reading when compared with the traditional schools that charter school student would otherwise attend? The difference between the AGP of the charter and the weighted AGP of the traditional school is:	
Exceptional:	≥ 20
Exceeds:	≥ 10 and < 20
Adequate:	≥ 0 and < 10
Approaches:	≥ -10 and < 0
Unsatisfactory:	≥ -20 and < -10
Critical:	< -20
2.1.f Using Adequate Growth results, are schools meeting AGP in math when compared with the traditional schools that charter school student would otherwise attend? The difference between the AGP of the charter and the weighted AGP of the traditional schools is:	
Exceptional:	≥ 20
Exceeds:	≥ 10 and < 20
Adequate:	≥ 0 and < 10
Approaches:	≥ -10 and < 0
Unsatisfactory:	≥ -20 and < -10
Critical:	< -20
2.1.g Are students in sub-groups (FRL, ELL, IEP) making adequate growth based on the percentage of students meeting AGP in reading?	
Exceptional:	$\geq 95^{\text{th}}$ percentile
Exceeds:	$\geq 75^{\text{th}}$ percentile and $< 95^{\text{th}}$ percentile
Adequate:	$\geq 50^{\text{th}}$ percentile and $< 75^{\text{th}}$ percentile
Approaches:	$\geq 25^{\text{th}}$ percentile and $< 50^{\text{th}}$ percentile
Unsatisfactory:	$\geq 5^{\text{th}}$ percentile and $< 25^{\text{th}}$ percentile
Critical:	$< 5^{\text{th}}$ percentile
2.1.h Are students in sub-groups (FRL, ELL, IEP) making adequate growth based on the percentage of students meeting AGP in math?	
Exceptional:	$\geq 95^{\text{th}}$ percentile
Exceeds:	$\geq 75^{\text{th}}$ percentile and $< 95^{\text{th}}$ percentile
Adequate:	$\geq 50^{\text{th}}$ percentile and $< 75^{\text{th}}$ percentile
Approaches:	$\geq 25^{\text{th}}$ percentile and $< 50^{\text{th}}$ percentile
Unsatisfactory:	$\geq 5^{\text{th}}$ percentile and $< 25^{\text{th}}$ percentile
Critical:	$< 5^{\text{th}}$ percentile

2.2 Student Achievement (Status)

2.2.a Are students achieving proficiency on state examinations in reading?	
Exceptional:	$\geq 95^{\text{th}}$ percentile
Exceeds:	$\geq 75^{\text{th}}$ percentile and $< 95^{\text{th}}$ percentile
Adequate:	$\geq 50^{\text{th}}$ percentile and $< 75^{\text{th}}$ percentile
Approaches:	$\geq 25^{\text{th}}$ percentile and $< 50^{\text{th}}$ percentile
Unsatisfactory:	$\geq 5^{\text{th}}$ percentile and $< 25^{\text{th}}$ percentile
Critical:	$< 5^{\text{th}}$ percentile

2.2.b Are students achieving proficiency on state examinations in math?	
Exceptional:	$\geq 95^{\text{th}}$ percentile
Exceeds:	$\geq 75^{\text{th}}$ percentile and $< 95^{\text{th}}$ percentile
Adequate:	$\geq 50^{\text{th}}$ percentile and $< 75^{\text{th}}$ percentile
Approaches:	$\geq 25^{\text{th}}$ percentile and $< 50^{\text{th}}$ percentile
Unsatisfactory:	$\geq 5^{\text{th}}$ percentile and $< 25^{\text{th}}$ percentile
Critical:	$< 5^{\text{th}}$ percentile

2.2.c Using proficiency rates, are schools achieving proficiency in reading when compared with the traditional schools that charter school student would otherwise attend? The difference between the proficiency rate of the charter school and the weighted proficiency rate of the traditional schools is:	
Exceptional:	≥ 30
Exceeds:	≥ 15 and < 30
Adequate:	≥ 0 and < 15
Approaches:	≥ -15 and < 0
Unsatisfactory:	≥ -30 and < -15
Critical:	< -30

2.2.d Using proficiency rates,, are schools achieving proficiency in math when compared with the traditional schools that charter school student would otherwise attend? The difference between the proficiency rate of the charter school and the weighted proficiency rate of the traditional schools is:	
Exceptional:	> 30
Exceeds:	≥ 15 and < 30
Adequate:	≥ 0 and < 15
Approaches:	≥ -15 and < 0
Unsatisfactory:	≥ -30 and < -15
Critical:	< -30

2.2.e Are students in sub-groups (FRL, ELL, IEP) achieving proficiency on state examinations in reading?	
Exceptional:	$\geq 95^{\text{th}}$ percentile
Exceeds:	$\geq 75^{\text{th}}$ percentile and $< 95^{\text{th}}$ percentile
Adequate:	$\geq 50^{\text{th}}$ percentile and $< 75^{\text{th}}$ percentile
Approaches:	$\geq 25^{\text{th}}$ percentile and $< 50^{\text{th}}$ percentile
Unsatisfactory:	$\geq 5^{\text{th}}$ percentile and $< 25^{\text{th}}$ percentile
Critical:	$< 5^{\text{th}}$ percentile

2.2.f Are students in sub-groups (FRL, ELL, IEP) achieving proficiency on state examinations in math?	
Exceptional:	$\geq 95^{\text{th}}$ percentile
Exceeds:	$\geq 75^{\text{th}}$ percentile and $< 95^{\text{th}}$ percentile
Adequate:	$\geq 50^{\text{th}}$ percentile and $< 75^{\text{th}}$ percentile
Approaches:	$\geq 25^{\text{th}}$ percentile and $< 50^{\text{th}}$ percentile
Unsatisfactory:	$\geq 5^{\text{th}}$ percentile and $< 25^{\text{th}}$ percentile
Critical:	$< 5^{\text{th}}$ percentile

2.3: Career and College Readiness

2.3.a Based on scores obtained from EXPLORE and PLAN, are students making adequate growth for being college ready by the time they graduate?	
Exceptional:	Average growth for all students in Math would be ≥ 3 points Average growth for all students in English would be ≥ 3 points
Exceeds:	Average growth for all students in Math would be ≥ 2.3 points and < 3 points Average growth for all students in English would be ≥ 2.4 and < 3 points
Adequate:	Average growth for all students in Math would be ≥ 2 points and < 2.3 points Average growth for all students in English would be ≥ 2 points and < 2.4 points
Approaches:	Average growth for all students in Math would be ≥ 1.5 points and < 2 points Average growth for all students in English would be ≥ 1.5 points and < 2 points
Unsatisfactory:	Average growth for all students in Math would be ≥ 1 point and < 1.5 points Average growth for all students in English would be ≥ 1 point and < 1.5 points
Critical:	Average growth for all students in Math would be < 1 point Average growth for all students in English would be < 1 point

2.3.b Are students on target for being college ready by the time they graduate as measured by the EXPLORE and PLAN college readiness bench marks in English and Math?	
English	
Exceptional:	≥76%
Exceeds	≥66% and <76%
Adequate:	≥56% and <66%
Approaches:	≥46% and <56%
Unsatisfactory:	≥36% and <46%
Critical:	<36%
Math	
Exceptional:	≥45%
Exceeds	≥35% and <45%
Adequate:	≥25% and <35%
Approaches:	≥15% and <25%
Unsatisfactory:	≥5% and <15%
Critical:	<5%

2.3.c Are students graduating from high school?	
<ul style="list-style-type: none"> • Based on a four-year adjusted cohort graduation rate • Based on a five-year adjusted cohort graduation rate 	
Exceptional:	≥95 th percentile
Exceeds:	≥75 th percentile and <95 th percentile
Adequate:	≥50 th percentile and <75 th percentile
Approaches:	≥25 th percentile and <50 th percentile
Unsatisfactory:	≥5 th percentile and <25 th percentile
Critical:	<5 th percentile

2.3.d Do students have the content and skill knowledge needed to succeed beyond high school?	
Exceptional:	
Exceeds:	
Adequate:	
Approaches:	
Unsatisfactory:	
Critical:	

Appendix B: Detailed Financial Performance Indicator Descriptions

The Financial Performance Framework is composed of both near term and sustainability indicators, each having four measures. It is important to note that the Framework is not designed to evaluate a school's spending decisions. It does not include indicators of strong financial management practices, which are laid out in the organizational performance framework. The Financial Performance Framework analyzes the financial *performance* of a charter school, not its processes for managing that performance.

Near Term	Indicator
1.a. Current Ratio: Current Assets divided by Current Liabilities	Measure
Meets Standard: <input type="checkbox"/> Current Ratio is greater than 1.1 or <input type="checkbox"/> Current Ratio is between 1.0 and 1.1 <i>and</i> one-year trend is positive (current year ratio higher than last year's)	Metric
Note: For schools in their first or second year of operation, the current ratio must be greater than 1.1.	Target
Does Not Meet Standard: <input type="checkbox"/> Current Ratio is between 0.9 and 1.1 Or <input type="checkbox"/> Current Ratio is between 1.0 and 1.1 <i>and</i> one-year trend is negative	
Falls Far Below Standard: <input type="checkbox"/> Current ratio is less than 0.9	

Near Term Measures

1) ***The current ratio depicts the relationship between a school's current assets and current liabilities.***

Overview: The current ratio measures a school's ability to pay its obligations over the next twelve months. A current ratio of greater than 1.0 indicates that the school's current assets exceed its current liabilities, thus indicating ability to meet current obligations. A ratio of less than 1.0 indicates that the school does not have sufficient current assets to cover its current liabilities and is not in a satisfactory position to meet its financial obligations over the next 12 months.

Source of Data: Audited balance sheet.

Near Term
Current Assets divided by Current Liabilities
<p><i>Meets Standard:</i></p> <input type="checkbox"/> Current Ratio is 1.1 or greater. or <input type="checkbox"/> Current Ratio is between 1.0 and 1.1 <i>and</i> one-year trend is positive. Note: For schools in their first or second year of operation, the current ratio must be greater than 1.1.
<p><i>Does Not Meet Standard:</i></p> <input type="checkbox"/> Current Ratio is between 0.9 and .99 Or <input type="checkbox"/> Current Ratio is between 1.0 and 1.1 <i>and</i> one-year trend is negative.
<p><i>Falls Far Below Standard:</i></p> <input type="checkbox"/> Current ratio is less than 0.9

2) The unrestricted days cash on hand ratio indicates how many days a school can pay its operating expenses without another inflow of cash.

Overview: The unrestricted days cash ratio defines whether or not the school has sufficient cash to meet its day-to-day obligations.

Source of Data: Audited balance sheet and income statement.

Near Term
Unrestricted Cash divided by (Total Expenses/365)
<p><i>Meets Standard:</i></p> <input type="checkbox"/> 60 Days Cash or more or <input type="checkbox"/> Between 30 and 60 Days Cash <i>and</i> one-year trend is positive Note: For schools in their first or second year of operation, they must have a minimum of 30 Days Cash.
<p><i>Does Not Meet Standard:</i></p> <input type="checkbox"/> Days Cash is between 15 and 29 days Or <input type="checkbox"/> Days Cash is between 30 and 60 days <i>and</i> one-year trend is negative
<p><i>Falls Far Below Standard:</i></p> <input type="checkbox"/> Less than 15 Days Cash

3) Enrollment forecast accuracy tells authorizers whether or not the school is meeting its enrollment projections, thereby generating sufficient revenue to fund ongoing operations.

Overview: The enrollment forecast accuracy depicts actual versus projected enrollment. A school budgets based on projected enrollment but is funded based on actual enrollment; therefore, a school that fails to meet its enrollment targets may not be able to meet its budgeted expenses.

Source of Data:

- Projected enrollment – Charter school board-approved enrollment budget for the year in question.
- Actual enrollment.

Near Term
Actual Enrollment divided by Enrollment Projection in Board-Approved Budget
<p><i>Meets Standard:</i></p> <input type="checkbox"/> Enrollment Forecast Accuracy equals or exceeds 95% in the most recent year <i>and</i> equals or exceeds 95% each of the last three years Note: For schools in their first or second year of operation, Enrollment Forecast Accuracy must be equal to or exceed 95% for each year of operation.
<p><i>Does Not Meet Standard:</i></p> <input type="checkbox"/> Enrollment Forecast Accuracy is between 85% and 94% in the most recent year or <input type="checkbox"/> Enrollment Forecast Accuracy is 95% or greater in the most recent year <i>but does not</i> equal or exceed 95% or greater each of the last three years
<p><i>Falls Far Below Standard:</i></p> <input type="checkbox"/> Enrollment Forecast Accuracy is less than 85% in the most recent year

4) Debt default indicates if a school is not meeting debt obligations or covenants.

Overview: This metric addresses whether or not a school is meeting its loan covenants and/or is delinquent with its debt service payments.

Source of Data: Notes to the audited financial statements.

Near Term
<i>Meets Standard:</i> <input type="checkbox"/> School is not in default of loan covenant(s) and is not delinquent with debt service payments
<i>Does Not Meet Standard:</i> <input type="checkbox"/> Not Applicable
<i>Falls Far Below Standard:</i> <input type="checkbox"/> School is in default of loan covenant(s) or is delinquent with debt service payments

Sustainability Measures

1) Total margin measures the deficit or surplus a school yields out of its total revenues; in other words, whether or not the school is living within its available resources

Overview: The total margin measures if a school operates at a surplus (more total revenues than expenses) or a deficit (more total expenses than revenues) in a given time period. The aggregated three-year total margin is helpful for measuring the long-term financial stability of the school by smoothing the impact of single-year fluctuations on the single year total margin indicator.

Source of Data: 3 years of audited income statements

Sustainability
Net Surplus divided by Total Revenue
Aggregated Total Margin:
Total 3 Year Net Surplus divided by Total 3 Year Revenues
<p><i>Meets Standard:</i></p> <p><input type="checkbox"/> Aggregated Three-Year Total Margin is positive <i>and</i> the most recent year Total Margin is positive or</p> <p><input type="checkbox"/> Aggregated Three-Year Total Margin is greater than -1.5%, the trend is positive for the last two years, <i>and</i> the most recent year Total Margin is positive</p> <p>Note: For schools in their first or second year of operation, the aggregate Total Margin must be positive.</p>
<p><i>Does Not Meet Standard:</i></p> <p><input type="checkbox"/> Aggregated Three-Year Total Margin is greater than -1.5%, but the trend is negative.</p>
<p><i>Falls Far Below Standard:</i></p> <p><input type="checkbox"/> Aggregated Three-Year Total Margin is less than -1.5% or</p> <p><input type="checkbox"/> Current year Total Margin is less than -10%</p>

2) The debt to asset ratio measures the amount of liabilities a school owes versus the assets they own; the extent to which the school relies on borrowed funds to finance its operations.

Overview: The debt to asset ratio compares the school's liabilities to its assets. Simply put, the ratio demonstrates what a school owes against what it owns. A lower debt to asset ratio generally indicates stronger financial health.

Source of Data: Audited balance sheet

Sustainability
Total Liabilities divided by Total Assets
<p><i>Meets Standard:</i></p> <p><input type="checkbox"/> Debt to Asset Ratio is less than 0.90</p>
<p><i>Does Not Meet Standard:</i></p> <p><input type="checkbox"/> Debt to Asset Ratio is between 0.90 and 1.0</p>
<p><i>Falls Far Below Standard:</i></p> <p><input type="checkbox"/> Debt to Asset Ratio is greater than 1.0</p>

3) The cash flow measure indicates a school's change in cash balance from one period to another.

Overview: Cash flow indicates the trend in the school's cash balance over a period of time. This measure is similar to days cash on hand, but indicates long-term stability versus near-term. Since cash flow fluctuations from year-to-year can have a long-term impact on a school's financial health, this metric assesses both three year cumulative cash flow and annual cash flow.

Source of Data: 4 years of audited balance sheets

Sustainability
Three-Year Cash Flow = (Prior Year 3 Total Cash) – (Year 0 Total Cash) One-Year Cash Flow = (Prior Year 1 Total Cash) – (Year 0 Total Cash)
<p><i>Meets Standard:</i></p> <input type="checkbox"/> Three-year cumulative cash flow is positive <i>and</i> cash flow is positive each year. or <input type="checkbox"/> Three-year cumulative cash flow is positive, cash flow is positive in two of three years, <i>and</i> cash flow in the most recent year is positive. Note: For schools in their first or second year of operation, they must have positive cash flow.
<p><i>Does Not Meet Standard:</i></p> <input type="checkbox"/> Three-year cumulative cash flow is positive, but the trend is negative.
<p><i>Falls Far Below Standard:</i></p> <input type="checkbox"/> Three year cumulative cash flow is negative.

4) The debt service coverage ratio indicates a school's ability to cover its current year debt obligations.

Overview: This ratio measures whether or not a school can pay the principal and interest due on its debt based on the current year's net income. Depreciation expense is added back to the net income because it is a non-cash transaction and does not actually cost the school money. The interest expense is added back to the net income because it is one of the expenses an entity is trying to pay, which is why it is included in the denominator.

Source of Data:

- Net income: audited income statement
- Depreciation expense: audited cash flow statement
- Interest expense: audited cash flow statement
- Principal and interest obligations: provided from the school

Sustainability
(Net Income + Depreciation + Interest Expense)/(Principal and Interest Payments)
<p><i>Meets Standard:</i></p> <input type="checkbox"/> Debt Service Coverage Ratio is equal to or exceeds 1.10
<p><i>Does Not Meet Standard:</i></p> <input type="checkbox"/> Debt Service Coverage Ratio is less than 1.10
<p><i>Falls Far Below Standard:</i></p> <input type="checkbox"/> Blank

Appendix C: Detailed Organizational Performance Indicator Descriptions

I. Educational Program

1. Essential terms of the charter agreement

- a. The school complies with the essential terms of the education program as stated in the charter.
- b. The school, if intended primarily for at-risk pupils, complies with NRS 386.500 and NAC 386.150(9) regarding serving at-risk pupils.

2. Education requirements

- a. The school complies with NRS 386.550(1)(i) and NRS 389.018(1) by providing instruction in the core academic subjects.
- b. The school complies with NRS 386.550(1)(i) by providing the courses of study required for promotion or graduation.
- c. The school complies with NRS 386.550(1)(f) and NAC 386.350(7) regarding amount of instructional time.
- d. The school complies with NRS 386.583 regarding academic retention requirements.
- e. The school complies with applicable promotion and graduation requirements.
- f. The school complies with applicable statutes and regulations regarding the state's adopted curriculum content standards.
- g. The school complies with NRS 386.550(1)(g) and Chapters 389 of NRS and NAC regarding state assessments and testing practices.
- h. The school complies with all applicable requirements regarding programming and reporting resulting from federal or non-DSA state funding including Title I, Title IIa, and Title III.

3. Students with disabilities

- a. The Charter School assures that it will adopt procedures that align with state and federal requirements in the following areas: [special education].

4. English Language Learner Students

- a. Proper steps for identification of students in need of ELL services.
- b. Appropriate and equitable delivery of services to identified students.

- c. Appropriate accommodations on assessments.
- d. Evaluation of ELLs': English Language Progress and Attainment (Exiting from program-Proficiency), and content Achievement.
- e. Ongoing monitoring of exited students (for 2 years after program exit).
- f. Assess the success of the ELL program and modify it where needed.
- g. Collection and Reporting of Timely and Accurate Data upon Request of the NDE/SPCSA.

II. Financial Management and Oversight

1. Financial Reporting and compliance

- a. The school complies with NAC 387.625, NAC 387.775(5), NAC 387.775(6) and NAC 387.775(9) regarding completion and on-time submission of the annual independent audit and corrective action plans, if applicable.
- b. The school complies with NRS 386.570 regarding all money received must be deposited in a financial institution in this state.
- c. The school complies with NRS 386.550, NAC 387.720 and NAC 387.725 regarding the adoption of a budget.
- d. The governing body of the school complies with NRS 387.303 regarding the annual report of budget.
- e. The governing body of the school complies, in writing, with NRS 386.573 regarding orders for payment of money.
- f. The school has submitted required expenditure reporting to In\$ite (Schoolnomics Consulting Services) required by the Legislative Counsel Bureau as authorized by **NRS 218E.625 and NRS 386.605**: yes/no.

2. Financial management and oversight

- a. An unqualified audit opinion in an annual independent audit as required by NAC 387.625 and NAC 387.775.
- b. An annual independent audit, as required by NAC 387.625 and NAC 387.775, devoid of significant findings and conditions, material weaknesses, or significant internal control weaknesses.

- c. An annual independent audit, as required by NAC 387.625 and NAC 387.775 that does not include a going concern disclosure in the notes or an explanatory paragraph within the audit report.
- d. The school's governing body has adopted written financial policies.
- e. Internal control consideration as a basis for design of the annual independent audit in conformity with NAC 387.625 and NAC 387.775.
- f. Financial Transaction Testing in conformity with NAC 387.625 and NAC 387.775.

III. **Governance and Reporting**

1. **Governance and reporting**

- a. Board policies adopted by the board and housed in AOIS' Permanent Files, if such policies have been adopted by the board and submitted into AOIS.
- b. NRS 386.520, Board bylaws as approved by the sponsor.
- c. NRS 386.550, Open Meeting Law.
- d. NRS 386.549, Conducting at least quarterly meetings.
- e. NRS 386.549, Salary for meeting attendance.
- f. NRS 386.549, Submission of signed and notarized affidavit for board service.
- g. NRS 386.549, Board composition/required membership.
- h. NAC 387.770(3), Designation of the person responsible for the maintenance of property, equipment and inventory records.
- i. NRS 386.605, Annual report of accountability.
- j. NRS 385.357(6), Plan to improve the achievement of pupils.

2. **Management accountability**

- a. NAC 386.405(5), Evaluation of any EMO with which the school has contracted, per the written performance agreement between the board and the EMO if applicable.
- b. NAC 386.405(6), Provision by the EMO, if applicable, of the financial report.
- c. NAC 386.410(5), Evaluation of the performance of each entity with whom the board has entered into a contract, including the school administrator.

- d. NAC 386.405(4), if applicable, approval of the appointment of key personnel who are directly employed and provided to the school by an EMO.

3. Reporting requirements

- a. The school complies with reporting requirements as described in the AOIS Reporting Requirements Manual including those related to the AOIS Permanent Files.
- b. The school complies with reporting requirements related to an authorizer-imposed corrective action plan or notice of concern, if applicable.

IV. Students and Employees

1. Rights of students

- a. The school's lottery method, maintenance of an enrollment waiting list, and enrollment practices are consistent with guidance provided by the Authority on its website.
- b. The school's enrollment recruiting and advertising comply with the school's charter school application as stated in Required Element A.7.4 and elsewhere.
- c. The school collects, protects and uses student information appropriately.
- d. The school complies with NRS 386.555 regarding the prohibition of support by or affiliation with religion or religious organizations.
- e. The school complies with NRS 386.585 and NRS 392.4655-.4675 regarding school discipline.

2. Attendance goals

- a. The school complies with NAC 386.350 regarding attendance.

3. Staff credentials

- a. The school complies with NRS 386.590 regarding staff credentialing.

4. Employee rights

- a. The school complies with NRS 386.595 regarding employee rights.

5. Background checks

- a. The school complies with NRS 386.588 regarding criminal history of employees.

V. School Environment

1. Facilities and transportation

- a. Have current fire, building, health and asbestos inspection documents and approvals, including the certificate of occupancy, been submitted into AOIS in compliance with NAC 386.170?
- b. The school complies with NAC 386.215 regarding insurance coverage by submitting into AOIS the current Affidavit for Provision of Insurance Coverage.
- c. The school complies with Section C.4 of its charter school application and NRS 392.300-392.410 regarding pupil transportation.

2. Health and safety

- a. The school complies with NRS 389.065 (sex education); NRS 391.207-391.208 (nursing services); NRS 392.420, 392.425, 392.430, 392.435, 392.437, 392.439, 392.443, 392.446, and 392.448 (school health and safety); and NAC 389.2423, 389.2938, 389.381, and 389.455.
- b. The school complies with NRS 392.616 regarding establishment of a crisis and emergency response development committee.
- c. The school complies with NRS 392.624 regarding annual review and update of the NRS 392.620 plan for responding to a crisis or emergency.

3. Information management

- a. The school complies with the Family Educational Rights and Privacy Act (FERPA), the Protection of Pupil Rights Amendment, and the Military Recruiter Provisions of the NCLB Act of 2001.
- b. The school complies with applicable state or federal freedom of information requirements.
- c. The school complies with applicable student record transfer requirements.
- d. The school complies with applicable requirements for the proper and secure maintenance of testing materials.

VI. Additional Obligations

1. Additional obligations

- a. The school and its governing body comply with the terms and conditions of its charter.

- b.** The school complies with NAC 386.342 and NAC 387.770 regarding inventory documentation.
- c.** The school (applicable only to high schools) complies with NRS 386.550(1)(m) and NAC 386.350(10) regarding notification of accreditation status.
- d.** The school complies with NRS 386.550(1)(c) and Section C.2 of its charter school application regarding fees.
- e.** The school complies with requirements regarding maintenance of personnel records.
- f.** The school complies with NAC 386.345(2) and NRS 332.800 regarding purchasing and prohibition of board member interest in contracts.
- g.** The school complies with NRS 392.040 regarding age of enrollment in grades K, 1 and 2.

1
2 NEVADA STATE PUBLIC CHARTER SCHOOL AUTHORITY
3 March 25, 2016
4 Legislative Council Bureau
5 2135
6 Carson City, Nevada
7 And
8 Grant Sawyer
9 4400
10 Las Vegas, Nevada
11
12 PARTIAL TRANSCRIPT OF PROCEEDINGS
13 FROM AUDIO/VISUAL RECORDING
14
15 NEVADA CONNECTIONS ACADEMY
16
17 AGENDA ITEM NO. 6
18
19 Consideration and Possible Action to direct Authority
20 staff to issue Notices of Closure pursuant to NRS 386.535
21
22
23
24 BOARD MEMBERS PRESENT:
25 Adam Johnson, Chair
Elissa Wahl, Member
Nora Luna, Member
Melissa Mackedon, Vice-Chair
Kathleen Conaboy, Member
Robert McCord, Member
Marc Abelman, Member (via teleconference)

24 Transcribed By: MARIAN S. BROWN PAVA, CCR #169, RPR
CALIFORNIA CSR #4525

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8 STEVE WERLEIN
9 JAFETH SANCHEZ
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12 AUTHORITY STAFF
13
14 GREGORY D. OTT
15 Deputy Attorney General
16
17
18 ED MCGAW
19 Deputy Attorney General
20
21
22 PATRICK GAVIN
23 State Public Charter School Authority
24
25

1 -oOo-
2 WEDNESDAY, MARCH 25, 2016
3 -oOo-
4
5 CHAIRMAN JOHNSON: We will call our meeting back to
6 order at 1:38. I apologize for being eight minutes
7 tardy. 1:38 p.m.
8 And so we are going to have Connections Academy come
9 up, and we're going to discuss the consideration and
10 possible action dealing with Connections, Nevada
11 Connections Academy.
12 So Deputy Attorney General Greg Ott -- Greg Ott, do
13 you have anything that you would like to start off with
14 or -- (inaudible).
15 MR. GAVIN: Mr. Chairman, I just want to be clear
16 that this is in relation to Agenda Item No. 6.
17 CHAIRMAN JOHNSON: Item No. 6, that is correct.
18 MR. GAVIN: Okay.
19 CHAIRMAN JOHNSON: And we have representation from
20 Nevada Connections Academy here at the table. Thank you.
21 MS. GRANIER: Thank you, Mr. Chair. Laura Granier on
22 behalf of Nevada Connections Academy, with the law firm
23 of Davis Graham & Stubbs.
24 MR. WERLEIN: Steve Werlein, principal of Nevada
25 Connections Academy.
First of all, thank you again for the -- I'm sorry.

1 CHAIRMAN JOHNSON: So we actually, over the
2 course of the day, we actually received -- or yesterday
3 received a continuance item on this item, and so the board
4 has an opportunity to -- to vote on whether we would like
5 to continue this item, Agenda Item No. 6.
6 Director Gavin, do you have any recommendations
7 on that continuance?
8 MR. GAVIN: Patrick Gavin for the record.
9 Mr. Chairman, I believe the item you are speaking
10 of is the -- is the addendum to the board package related
11 to -- I believe the specific request was for a continuance
12 related to Nevada Virtual Academy. However, we do think
13 it is appropriate, since we are offering that continuance
14 to Virtual, to offer it to the -- to the people from
15 Connections, as well.
16 I will note that the staff and -- and counsel of
17 Connections, you know, have engaged with us in some
18 dialogue. We recognize that there is a gap between what I
19 think the school would like to see versus what we are
20 currently talking about with them, but we would like to
21 continue the conversation.
22 I know Ms. Granier has expressed concern just
23 based on the agency's capacity and bandwidth about our
24 ability to sit down and have a meaningful conversation
25 in -- other than, basically, out in the hallway yet again.

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 8 STEVE WERLEIN
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 11 AUTHORITY STAFF
 12 GREGORY D. OTT
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 16 or -- (inaudible).
 17
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 20
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 23 MR. GAVIN: Okay.
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 25 continue the conversation.
 I know Ms. Granier has expressed concern just
 based on the agency's capacity and bandwidth about our
 ability to sit down and have a meaningful conversation
 in -- other than, basically, out in the hallway yet again.

1 So I think both Mr. Ott and I have committed to her -- and
 2 I will certainly commit this to the other three schools in
 3 question -- you know, that we will engage in either
 4 face-to-face or telephonic discussions within the next two
 5 weeks. Again, calendars are tough to switch, all the
 6 other things that we're expected to do as an agency, but I
 7 think that's -- I think that is a reasonable thing.
 8
 9 Because I would like to see some mechanism for
 10 ensuring that students' educations are not disrupted for
 11 the kids who are getting what they need, and -- and,
 12 again, work with the school to figure out how we can
 13 ensure that far more kids are getting what they need.
 14
 15 MS. GRANIER: Thank you, Mr. Chair, members of
 16 the board.
 17
 18 We appreciate that very much. And I think
 19 regardless of what happens today on this item we would
 20 like to have that meeting, and I hope the commitment is
 21 there no matter what happens. But we take this Notice of
 22 Closure very seriously. There are very serious legal
 23 implications. It has created a great deal of concern and
 24 unrest among parents, among the staff, among the school.
 25 And it is time for us to have a very meaningful dialogue
 with you as a board.
 We feel it is critical that we have the
 opportunity to put information before you today, and then

1 once you have heard that information, you could consider
 2 how you should act and -- and we would appreciate that
 3 opportunity. We didn't know until, frankly, this morning
 4 for sure, but we had a hint yesterday afternoon, that we
 5 would be allowed to make a presentation during this agenda
 6 item, and not being limited to public comment. And so
 7 we're here and we would like you to hear the information
 8 that -- that we think is very relevant and material to
 9 this issue.

10 CHAIRMAN JOHNSON: Absolutely.

11 MS. GRANIER: Okay.

12 MR. WERLEIN: For the record, Steve Werlein,
 13 principal of Nevada Connections Academy.

14 I want to -- I am going to share some slides that
 15 one of my board members this morning was not able to stay
 16 and do. But before I do that, I just want to say that,
 17 again, I'm surprised that we're in this position. We've
 18 had a few conversations over the last week. We thought we
 19 were making progress so we would not have to be in this
 20 position, facing a Notice of Closure. As Ms. Granier
 21 said, it's disruptive to our staff, our students, and it
 22 is doing harm to the school.

23 And our understanding is, we are here because of
 24 our four-year cohort graduation rate. And we want to make
 25 sure that we don't just make excuses and get anecdotal

1 stories about all the kids we serve, but we want to make
 2 sure that that one data point is something that we use as
 3 a large suite of data, of different data points and
 4 metrics that we can look at. And we know we can improve,
 5 but we don't think issuing a notice of closure is the way
 6 to drive us to improve, especially on this one data point.

7 So I want to focus on some of the characteristics
 8 of our school. And my board member, Ms. Rivera, this
 9 morning, mentioned this. But we serve a very high
 10 percentage of free-and-reduced lunch students.

11 We serve a lot of credit-deficient students.
 12 Forty-eight percent of our students enrolling in grades 10
 13 through 12 are credit deficient. That's something that we
 14 take very seriously. And, again, we know we can do
 15 better, but we also know that we're filling a need for
 16 those students, and oftentimes we're their last resort.
 17 And you heard that a lot this morning.

18 We have a high -- very highly mobile population.
 19 Fifty-nine percent of the students in 2013-14 were new to
 20 the school. Sixty-eight percent of our high school
 21 students enroll after ninth grade. That's a lots of new
 22 students.

23 However, if we look at our graduate -- graduating
 24 class last year, 2015, we examined the characteristics of
 25 them, and we found that 90 percent of them were on track

1 when they enrolled, of the ones that graduated; ten
 2 percent were off track when they enrolled, but were
 3 successful in graduating on time through the efforts of
 4 our school. For students who come to us on track there is
 5 a very good chance they'll graduate on time, even using
 6 the current calculation.

7 For the 2015 cohort, 78 percent of all students
 8 who were on track when they enrolled, graduated on time.
 9 Six of the students that were included in our group of
 10 non-graduates were enrolled for less than one month. One
 11 student of that group was only enrolled for 14 days, yet
 12 counted against our cohort rate.

13 The current four-year grade -- cohort rate does
 14 not account for highly mobile students, as you see. Under
 15 the new proposed legislation, ESSA, there's a requirement
 16 that at least half a school year is spent at a school or
 17 the student is counted at their previous school.

18 This pie graph depicts for you how long our
 19 students -- how mobile they really are. Sixty percent are
 20 enrolled for one year or less. We know that students come
 21 to us due to a medical condition, due to a variety of
 22 issues, transiency. We don't know how many all the time
 23 fit into each category, but we know that our transiency,
 24 mobility rate is very high, and because of that, our
 25 cohort rate is obviously going to be impacted.

1 Yes, ma'am.

2 MEMBER WAHL: Sorry to interrupt your flow.

3 Is your transiency rate high in all of the state
 4 or just Clark County?

5 MR. WERLEIN: It is high across the state. I
 6 think it's -- and I don't have the statistics. I would
 7 say it's probably more concentrated in Clark County, but
 8 we do see it a lot up in Washoe and in the rural areas, as
 9 well.

10 Of our 2015 graduates, as (inaudible), 75 percent
 11 of them are off track. And you can see as they come to us
 12 later and later in their high school career, they are
 13 further and further behind, which again points to the fact
 14 that we are oftentimes the last stop for these students.

15 Of our 2015 students that are considered
 16 non-graduates under the current definition of adjusted
 17 cohort, 27 percent of them are still enrolled and are
 18 still trying to graduate. And we are going to do
 19 everything we can to make them graduate.

20 We are glad that we have the opportunity to help
 21 those kids that otherwise would just be counted as
 22 dropouts. And even though they hurt our cohort rate, we
 23 believe there's value in getting them across the stage.

24 We looked at our data from 2015. There were 14
 25 students that were counted in our cohort as being

1 dropouts, that are also currently enrolled in
2 post-secondary institutions. I'm sorry. Twelve are in
3 four-year colleges, and two are in two-year colleges. And
4 we pulled that data from the National Student Clearing
5 House. So even though they're dropouts, somehow they're
6 at college. I really question how valid that is.

7 MEMBER CONABOY: Mr. Chairman, may I ask a
8 question?

9 CHAIRMAN JOHNSON: Yes.

10 MEMBER CONABOY: Mr. Werlein, it's my
11 understanding -- and I need you to correct me if I'm
12 wrong --

13 MR. WERLEIN: Please.

14 MEMBER CONABOY: -- please. It's my
15 understanding that the schools have an opportunity to
16 review their data before the final validation by the
17 department takes place. So how does this happen?

18 MR. WERLEIN: Quite honestly, there's -- because
19 of our transiency, we have a lot of students that when
20 they -- they drop out, we do everything in our power to
21 request records and to ascertain where they are. It can
22 be a very lengthy, six-, seven-, eight-, nine-step
23 process. And we're able to track where most of them are,
24 but there are some that, quite honestly, we cannot locate.
25 So we do everything in our power, but then we have things

1 like this pop up, where they're -- obviously went
2 somewhere, either out of state, or however they got there,
3 but they get through a post-secondary level.

4 MS. GRANIER: And I guess -- for the record,
5 Laura Granier -- I guess the question would be, you know,
6 is that really -- is there a meaningful process for the
7 school to present the type of information that we're here
8 to present to you today?

9 And I'll talk about this in a bit, so I won't
10 interrupt Steve's presentation here, other than to say,
11 before this board ends up in a place where it is -- has
12 agendized publicly that it is considering issuing a notice
13 of intent to close a school, at a minimum there should be
14 an opportunity for the school leader and the school board
15 to sit down with the Authority staff and present this kind
16 of data. That is all -- that is one of the things we
17 asked for, and we were denied. And so instead, we are
18 here before you in a public hearing, having caused a great
19 amount of harm to a school because of the uncertainty
20 that's been imposed.

21 MEMBER MCCORD: Well, Madam -- or Mr. Chairman,
22 let me go back, then, a couple of slides. You have the
23 number of credits deficient increasing, where we're
24 drilling down on the data at the request of your counsel.
25 Let's look at that for a minute.

1 It says the number of credits deficient increase
2 from grade level to grade level, if you would.
3 Seventy-five percent are off track. For ninth grade you
4 say -- you say 1.5. I assume that's a mean of 1.5 across
5 the entire end, so that there was a range of that, some of
6 which would have zero, some of which would have maybe more
7 than -- well, could have six.

8 And so when in fact you present this data, it's
9 oftentimes useful to include the end and the range when in
10 fact you're -- you're doing a measure of central tendency.
11 Okay? If in fact it is your commitment to help us become
12 better informed, please do it in a comprehensive manner.
13 And I mean that in a constructive sense, please.

14 MR. WERLEIN: And I appreciate that suggestion.
15 Thank you.

16 MR. GAVIN: If I might echo that? Patrick Gavin
17 for the record. I think what would be particularly
18 informative and responsive to Member McCord's request --
19 and I think it would help inform the deliberations of the
20 board with relation to this -- would be actually
21 quantifying the "N" of kids who are at each level of
22 credits earned. So number of kids who are one credit, two
23 credits, et cetera, at each level of the cohort. Because
24 there is a -- there can be a perception that we are
25 lumping in the kids who are one credit off from the seven

1 max that might be earned in a year, when in fact that
2 child actually is ahead of where they are to be
3 technically on grade level. Because a student that
4 actually passes every class and sits in every section
5 actually has a heck of a lot more credits than are
6 actually required to graduate. So I just think it's
7 really critical from a definitional perspective that the
8 school provide very clear data on this.

9 I would also note, I think it is really
10 important -- and this is something we should talk about
11 more offline, but -- there -- there be some method of
12 third-party validation of this, partic- -- whether that is
13 a transcript audit performed by a third party that is
14 acceptable to the Authority and the school, but paid for
15 by the school since there -- there are no State funds for
16 this, unfortunately.

17 But if we're going to -- if we are going to
18 present an alternate theory of what's happening, I do
19 think it's really critical for -- to ensure that neither
20 this body's integrity, nor the integrity of the school and
21 its board, are impugned, that we are very clear about what
22 the actual data points are.

23 MEMBER CONABOY: Mr. Chair?

24 CHAIRMAN JOHNSON: Yes, Member Conaboy.

25 MEMBER CONABOY: I think the executive chair

1 director is confirming counsel's argument that these
2 conversations ought to take place. A healthy discussion
3 about what will and will not be considered, and in what
4 format, certainly would inform our process much better.

5 MS. GRANIER: Thank you, Member. And I just
6 wanted to ask -- I guess ask a question, honestly a
7 question, because I think the school is -- we are all
8 about transparency. And we feel there should be a
9 transparency, you know, on both sides.

10 So just as we want you to look at all these
11 numbers and consider them -- and we will provide more
12 detail, absolutely, so that they are meaningful -- we want
13 to understand, how is the decision made to -- to put this
14 on the agenda?

15 Because the first time it showed up on the agenda
16 we had no idea, not so much as a phone call, "You're going
17 to be placed on the agenda for a notice of closure, and
18 here's why." It just showed up (inaudible).

19 MEMBER MCCORD: I believe you documented that in
20 your correspondence already, have you not?

21 MS. GRANIER: Yes, I have, Member McCord. And
22 I -- so my point, though, with respect to the third-party
23 validation is, that certainly is something to be
24 discussed. And there's no problem sharing the
25 information, absolutely.

1 My question would be: How can an agency rely on
2 one set of data that is validated by the Nevada Department
3 of Education to close a school, and then ask -- and then
4 say they can't rely on different calculations or
5 explanations of the number based on that same data that is
6 validated by NDE, that it has to be validated by a third
7 party? I don't -- I don't -- I see a fundamental flaw in
8 that process, that the State can rely on information for
9 closure, but the school can't rely on the same
10 NDE-validated information to oppose closure and say that,
11 you know, "You are looking at these numbers. When you
12 talk about lumping numbers together, you are only looking
13 at a four-year cohort number." You know, a number that
14 doesn't hit 60 percent because of credit-deficient
15 students.

16 And I want to let Steve continue, because he's
17 going to touch on that a lot more. And so I -- I just
18 would ask, you know, you to consider -- and I agree with
19 your comment and I appreciate your comment. These are all
20 things that we would have -- we would have addressed and
21 discussed had we just had the opportunity to have a
22 meaningful conversation before we showed up on an agenda
23 for an intent for a notice of closure, so --

24 MR. GAVIN: Ms. Granier, I just want to ask a
25 clarifying question. So you've noted that -- that the

1 Authority does -- and it is true, the Authority uses data
2 that is reported by the department, and then has been
3 validated by the department. So there is a -- there is a
4 cohort graduation rate which has been calculated by the
5 department and is published.

6 I am not aware of any report by the Nevada
7 Department of Education which is either -- which -- or any
8 analysis, whether or not it is actually reported, which
9 gets at the data points that you're sharing up there, or
10 that slices the data in the way in which you are speaking.
11 Is there such a thing and we're ignorant of it? If so,
12 please let us know what that is.

13 MS. GRANIER: And to respond to your question --
14 Laura Granier for the record -- Director Gavin, I
15 understand that the school has used the information based
16 on the same numbers that are reported and validated by NDE
17 to prepare the information that he is presenting today.

18 So that was my point. If those numbers are valid
19 for closure, they should be valid to be considered in --
20 you know, to explain why closure is not appropriate.

21 MR. WERLEIN: For -- Steve Werlein for the
22 record -- for example, we use Big Horn to look at our
23 total cohort groups when they come in. And that's readily
24 available. That's what the State, the NVDOE uses, as
25 well.

1 MR. GAVIN: But, again, is there an actual
2 analysis, as produced by an objective third party, such as
3 the department which actually validates this
4 interpretation of the data, that says, "Yes, 79 percent of
5 students are" -- "did persist"? That says whether -- you
6 know, whether -- what percentage of students are on track
7 at each -- you know one, two, three, four, five, six,
8 seven credits, whatever it might be?

9 Again, I am not aware of one. If -- if there
10 is -- if there is something being produced that we're not
11 aware of, that we can rely upon -- because we have -- we
12 have no statutory authority to create additional analytic
13 capacity. This is not something that there -- and let me
14 be very clear. If we start creating our own alternate
15 calculations that are not enshrined in law or statutes and
16 that we cannot validate, we -- you -- we will be putting
17 the agency in an untenable position with both the
18 governor's office and the legislature.

19 MR. WERLEIN: I am not aware of -- Steve Werlein
20 for the record. I'm not aware of a particular report.
21 But, again, we're not opposed to third-party validation.

22 Okay. Continuing. Some characteristics of
23 our -- more characteristics of our student body.

24 Students that entered our school in ninth grade
25 and stayed for four years had a 79 percent -- 79 percent

1 of them graduated on time. Seventy-seven percent of
2 full-year twelfth-grade students last year -- which means
3 they enrolled by October 1st and stayed enrolled through
4 graduation -- actually graduated. That does include some
5 summer-school graduates.

6 So I've talked a little bit about the
7 characteristics of our -- our student population. And, of
8 course, we would be happy to answer the questions. I
9 appreciate the feedback about -- that we were given by
10 Member McCord and by Executive Director Gavin.

11 When it comes to accountability, we certainly
12 want to be held accountable. We have no problem with
13 that. We have no problem with being transparent. But we
14 want to have an accurate measure that looks at all the
15 efforts the school is undertaking. The State
16 accountability framework now -- which I know is changing,
17 but -- it's a work in progress -- does not necessarily
18 accurately measure the mobility factor, the
19 credit-deficient factor, and other factors that -- that
20 cannot be captured in a four-year adjusted cohort rate.
21 And we know that's through no one's intention, it's just a
22 statement of fact.

23 When there's a typical accountability framework,
24 they usually apply very well -- or can apply very well to
25 traditional-zoned schools, where students are enrolled for

1 multiple years. The majority of kids usually stay in the
2 same system from elementary, middle, and high school. You
3 see them move across town, but they stay within the same
4 system. So when there is low mobility, using metrics like
5 that, and proficiency scores perhaps, can be very fair
6 reflections of how the school is performing.

7 But for schools that have high mobility and are
8 serving a high population of at-risk and credit-deficient
9 students, that is -- those two measures that I just
10 mentioned are not always the best. Like I said, we're
11 happy to be accountable for student (inaudible). We want
12 to be. But we're really being held accountable -- as are
13 a lot of other schools -- for the failures of other -- of
14 students' prior schools.

15 The example that I gave of a student that was
16 enrolled with us for 14 days, I don't know how we could
17 have turned that student's life around and made him
18 graduate in 14 days without raising other questions.

19 So, again, we want to be held accountable, but we
20 want it to be realistic and reasonable.

21 Some other highlights of our academic
22 achievement. This is from 2013-2014. You can see there
23 are a lot of areas across the board where NCA either met
24 or exceeded the State average on proficiency tests. And
25 we were, in 2013-2014, designated as being in good

1 standing by the Charter Authority.

2 MR. GAVIN: Mr. Werlein, I don't want to
3 interrupt your flow. If you'd prefer, I --

4 MR. WERLEIN: No, you're fine. You're fine.

5 MR. GAVIN: May I ask a clarifying question?

6 MR. WERLEIN: Absolutely.

7 MR. GAVIN: You've noted student mobility as a
8 factor. As I -- as I am sure you are aware, having like
9 myself been a relatively recent transplant to Nevada and
10 having, and having worked in a number of other states --
11 but you, if I recall correctly, your most recent
12 experience was also in a southwestern state. Texas;
13 correct?

14 Nevada has a very high student mobility and
15 transience rate generally speaking. Nevada has many
16 comprehensive high schools, which -- where there is high
17 degrees of transiency, mobility, disappearance of kids.

18 So my -- I guess my big question is: What, if
19 any, data points do you have -- and we can talk about the
20 validation piece later, of course -- but what data points
21 do you have that says that -- that demonstrate clearly and
22 convincingly that Nevada Connections' transiency --
23 these -- these -- these extra analyses that you've raised,
24 are materially different than for the other low-performing
25 elementary, middle, and high schools that are on the

1 State's low -- low -- low-performing schools list? The 78
2 of which are -- traditional public schools are -- are
3 eligible for inclusion in the Achievement School District,
4 which is a dramatic turnaround intervention, including
5 massive structural changes with governance and operation.
6 Based on the -- based on the data points that we have
7 validated, you know, were Nevada Connections a traditional
8 public school, it would be eligible for the ASD. We
9 are -- so I -- what --

10 How are you different? And can you -- and how
11 can you prove it? And how can you sell it? Verse -- I
12 just think it's really critical, if you are going to
13 tell -- if you are going to tell this story that it's --
14 that we're really -- it's agreed that it is possible that
15 we're really comparing apples and apples.

16 And I would submit that a comprehensive high
17 school in Clark County or in Washoe, with the broad range
18 of students that it takes in, including students who are,
19 I am sure, as wildly successful as many of the kids whose
20 parents testified today, and then there are kids who, for
21 whatever reason, are not as successful. You know,
22 including the kid who is only there for 14 days or
23 two days or 49 days, whatever it might be. That happens
24 across the state.

25 So I think it would be useful if there is any way

1 of actually defining that -- and I think where I am at a
 2 loss is, I'm not aware of any objective data source that
 3 allows us to say anything other than -- to swim in the
 4 world of anecdote one more -- or unverified stories
 5 between schools, where it's like, "Okay. Coronado High
 6 School is this. Hug High School is this. Nevada
 7 Connections High School is this."

8 Like those are -- I'm not aware of any data set
 9 that gives us the -- especially right now, especially with
 10 the very limited implementation of infinite campus that we
 11 see statewide, and with -- and with varying degrees of
 12 participation by schools and varying degrees of -- of
 13 transparency and auditing of that, ultimately,
 14 self-reporting data. It's going to get us to a point
 15 where we can -- where we can walk in and say, you know,
 16 "This is an accurate reflection of the data," versus the
 17 most -- the most advantageous interpretation.

18 And again, I -- I want to -- I want to emphasize,
 19 this is about ensuring that whatever data points are
 20 shared are -- we use to justify ongoing operation for this
 21 school -- or I should say that this body, that this board
 22 chooses, based on either concurring or rejecting staff
 23 recommendation, are based on things that have a high
 24 degree of integrity and verifiability.

25 MS. GRANIER: For the record, Laura Granier. And

1 I don't mean to interrupt, but I do want to address a
 2 couple of points there. One is, I think we have no
 3 problem with that, and we want to present good
 4 information. We think this board is legally obligated to
 5 make decisions based on substantial evidence that are not
 6 arbitrary and capricious.

7 I don't believe there's evidence before this
 8 board to confirm or deny your statements about
 9 comprehensive schools. I certainly don't -- "I don't
 10 know" is the answer. But the point is, with fair notice
 11 and -- you know, that information can be looked at prior
 12 to the hearing or at the hearing.

13 But I think importantly, the sole reason we are
 14 here, that we were told in phone calls this week and a
 15 couple weeks ago in staff -- with staff is this four-year
 16 cohort graduation rate. That's not a comparison of how
 17 other schools perform. That is a graduation rate of our
 18 school. So I don't think it's appropriate to consider
 19 comprehensive schools and how they're doing.

20 Our point is that the mobility factor affects
 21 this four-year cohort graduation rate. When we get a
 22 student who came to us 14 days before graduation -- or we
 23 had six of them for less than half a year -- what we're
 24 saying to you is, you've got to -- you've got to figure
 25 that we -- that is going to hurt our four-year cohort

1 graduation rate, because it is impossible to graduate that
 2 student. And so the point is: How do you look at that
 3 four-year?

4 You want -- and we spoke to Nevada legislatures
 5 like that. And we've given you -- about that issue. And
 6 they were very concerned, and this board should be very
 7 concerned, that these students have a place to go. You
 8 don't want us to turn them away. We're not turning them
 9 away. Nevada Connections Academy is proud to welcome them
 10 with open arms, knowing that we will end up here, under
 11 this current calculation, because you will not consider
 12 the fact that these students are mobile. That is the
 13 point we're making.

14 So I don't think it's appropriate to ask for a
 15 comparison, or for us to provide -- provide evidence of
 16 what other schools are doing when you have us here solely
 17 on our four-year cohort graduation rate, and I --

18 Now, with respect to these students, we're happy
 19 to serve them. And what we want to do is work with you.
 20 You know, you were -- you were given discretion by the
 21 legislature to consider a notice of closure based on this
 22 60 percent graduation rate. The legislature considered --
 23 and it was in one of the drafts of the bill -- making it a
 24 mandatory trigger, and they took it out. They put it in
 25 the discretionary provision.

1 And the testimony presented to the legislatures
 2 from -- as a representation from this Authority was that,
 3 of course we want to make judicial -- judicious and
 4 thoughtful decisions, and we will look at compelling
 5 evidence. And that is how you do it without abusing the
 6 discretion you have been given.

7 Under the law, you take evidence and your
 8 decision is based on substantial evidence after hearing
 9 the compelling evidence, as Director Gavin said to the
 10 legislators. It is not without any opportunity for notice
 11 or a hearing to set it on an agenda without any
 12 explanation of the data behind it. And so that is the
 13 point about the mobility issue.

14 And if there are questions and you want more
 15 information from us -- that's our point about meeting with
 16 you before we end up on an agenda. It is fair that we be
 17 asked those questions, so that we can come to you, to
 18 staff, before the hearing. And if staff is not satisfied,
 19 then we'll come to the hearing. But at least we have had
 20 a chance to engage in the dialogue and understand what the
 21 concerns are and what the questions are, rather than
 22 hearing them for the first time in a hearing where we've
 23 been -- where we're agendized for a possible notice of
 24 intent to close.

25 MR. WERLEIN: I'm not going to spend too much

1 more time on that. But we did look at last year's
2 graduating class. And if we were to use the ESSA
3 calculations this year, our 2000 -- I'm sorry -- our 2015
4 cohort rate was 36 percent. If we were to use the ESSA as
5 it stands, with a 50 percent cutoff -- meaning, the
6 student's with us for half a year -- that would be
7 44 percent. If we looked at 75 percent, which some states
8 are doing, we would be looking at a 48 percent.

9 And this is not to say that we can just inflate
10 our numbers, "No, look, we're okay." But it gives us a
11 much higher starting point. Because, believe me, like you
12 heard from our board members and you heard from
13 Ms. Granier and others, we want to improve. We want to
14 raise that rate as much as we can. But just giving it
15 some perspective there, looking at a new measure kind of
16 sheds some new light on -- on what ESSA, the impact it
17 will actually have.

18 And I -- my colleague earlier this morning talked
19 about some of these other points, but I just really think
20 that it's important that as a board you understand, we
21 have every desire to collaborate, to improve, to take
22 suggestions. We take them to heart. We take them
23 seriously. As a school, as an organization, as an
24 administration, we want to improve. We want to listen.
25 We want feedback. We want constructive criticism. We

1 want to move forward. But we also want to bear in mind
2 that there should be multiple measures of evaluating a
3 school like ours, that has a four-star middle school,
4 that has an elementary school that was approaching three
5 stars, which we know we can improve. But items like that.
6 The growth that our students can display, and have
7 displayed. We really want all of those to be considered.

8 And again, as a school leader my job is to not
9 make excuses, it's to come up with solutions. And I
10 really look forward to working with the Authority. I'm
11 hoping we're not issued a notice of closure, because I --
12 like I said, I look forward to working for the -- with the
13 Authority staff and helping our school improve. Thank
14 you.

15 CHAIRMAN JOHNSON: Any questions or -- for
16 Mr. Werlein or Ms. Granier?

17 MEMBER MCCORD: Mr. Chairman.

18 I'm -- you may find this hard to believe. I'm
19 sympathetic with your -- what you're saying in a lot of
20 respects. One of the -- one of the persistent problems
21 that I face -- and I mean this as constructive, not
22 critical. Okay? I mean it as constructive. Oftentimes
23 when we work with challenging populations -- and I'm
24 familiar with that. I had the highest -- or the lowest
25 socioeconomic school in Clark County, and I was the

1 principal of it. Okay? A wonderful place, wonderful
2 place. But you can describe the children all day long.

3 The question is: What is it that the data has
4 shown to you that is going to help you improve that
5 program and delivery of services? Absent from this
6 document is any of that kind of information -- or maybe I
7 am just not seeing it, and you can enlighten me on that
8 issue. But how do you do things differently?

9 Yeah, I am kind of -- of an advocate. Why is "No
10 Child Left Behind" dead? It is because it relied on -- on
11 single metrics. Just the same discussion that you've had
12 at this point. So I have some sympathy for that. And I'm
13 happy to -- to say that in public that maybe everything
14 isn't crafted as well as it should be in some respects.

15 On the other respect, when in fact we describe
16 kids and we characterize kids as being a very challenging
17 population, then you have to follow that with, "Here's
18 what we're doing that's really innovative and really going
19 to make a difference with those kids, and I'll be back to
20 you with the results of that."

21 I am not -- you're not alone. Okay? You're not
22 alone in this -- in this issue. I don't mean to be
23 engaged in a colloquy on this or get into it long. It's
24 just a disappointing point to me, but one that I intend --
25 communicate to you as -- in a constructive way. Okay? As

1 a hopeful for the future.

2 MR. WERLEIN: We already just -- Steve Werlein
3 for the record -- this year, looking at the population and
4 the sheer number of students that have enrolled this year,
5 and that we have carried over from last year, we've made
6 some improvements to our curricular offerings, to our
7 staffing models. These are all preliminary measures.
8 We're going to do a lot more, and we look forward to
9 receiving more -- more guidance and more ideas.

10 But the one thing we found is that so many of our
11 students come into us so disengaged, and have been from
12 school to school, that the most important thing we can do
13 is make sure we put those students in the position to
14 develop relationships with adults. And to that regard, we
15 have implemented mentoring, a family system, where staff
16 see kids from -- from day one through graduation.

17 Those are just a couple of things. I would be
18 more than happy, as we develop and put things into
19 place -- my goal is to be back here and share the results
20 of what we have done this year, moving forward, and to --
21 to have some tangible, concrete results of working with
22 these students. And I appreciate the -- the feedback.

23 MS. GRANIER: Chair Johnson, I apologize. I
24 actually had a presentation, but I felt like you should
25 hear from the principal and hear from a lawyer, as always,

1 as a last resort, so --

2 MEMBER CONABOY: May I interrupt, Mr. Chair? I
3 need to ask counsel a question. And I did discuss this
4 with Mr. Ott when he was our counsel earlier this week,
5 but now I need to ask Mr. McGaw, since I suddenly realized
6 that there are multiple schools on this agenda item.

7 Mr. McGaw, I have disclosed in the past that I
8 represent K12, Inc., which is the EMO for Nevada Virtual,
9 which is on the agenda for this item, I think for separate
10 consideration. But may I engage in this discussion while
11 a different school is at the table?

12 MR. MCGAW: Yes, you may, as long as it's
13 specific to that school.

14 MEMBER CONABOY: Thank you.

15 CHAIRMAN JOHNSON: Is there any other -- are
16 there any other further questions or discussion either for
17 Dr. Gavin or Ms. Granier? Member Wahl.

18 MEMBER WAHL: (Inaudible.)

19 CHAIRMAN JOHNSON: Member Wahl.

20 MEMBER WAHL: Member Wahl. So when you get that
21 notice of closure, is that when you're starting trying to
22 make a change, or is it when you see your graduation rates
23 are not what the State expects?

24 If I was a school leader and my graduation rates
25 were not what the State expects, I would start making an

1 immediate difference. And then when the other shoe
2 drops -- which is now -- I would have sufficient stuff to
3 show you: "Look. Here's what we're doing." I don't want
4 us to be in a situation where the Notice of Closure is,
5 "Ah, I never saw this coming." And that's not what -- you
6 should have seen it coming.

7 So did you start making a change when you knew
8 your graduation rates were not good, or when you got the
9 notice of closure?

10 MR. WERLEIN: Graduation rates and post-secondary
11 readiness have been part of our school improvement plan
12 since I began at the school. I think we've gotten more
13 focused on it, and that's when we've looked at increasing
14 our credit recovery initiatives. But it was not this fall
15 or two weeks ago, it was quite awhile ago. I think
16 there's more we can do, but we definitely, as part of our
17 school improvement plan organizationally at the school
18 level, it's been something we've been focusing on.

19 MEMBER MACKEDON: I have one question.

20 CHAIRMAN JOHNSON: Go ahead.

21 MEMBER MACKEDON: Patrick, correct me if I'm
22 wrong. Doesn't our performance framework actually call
23 for a comparison of schools? I mean, isn't that what our
24 performance framework does, is it takes students and says,
25 "If this student was at their home's own school, this is

1 the" -- I mean, I know it does that for the elementary and
2 the middle school. It says, "This would be their" -- you
3 know, "the median growth percentile at that school. This
4 would be the proficiency rate at that school."

5 I am not as familiar with high school. Does it
6 do the same thing with high school graduation rates in our
7 performance framework, where it does that comparison?

8 MR. GAVIN: Patrick Gavin for the record.

9 The standard performance framework for schools
10 that operate under charter contracts that have not --

11 MEMBER MACKEDON: Um-hum.

12 MR. GAVIN: -- petitioned the board for an
13 amendment, which has been approved by the board to change
14 that performance framework, does not have that comparison.
15 And that was -- and keeping in mind that the performance
16 framework was developed in a consultative process prior to
17 my joining the Authority by the previous director and --
18 and former staff in consultation with schools. I believe
19 that was an area where there was concern about the lack of
20 comparability. The particular -- and in particular, if
21 I'm recalling -- if I recall the statute, the statutory
22 provision, it specifically talks about student growth
23 comparisons. So there is no -- there is currently no
24 student growth comparison for high school that -- that
25 works statewide.

1 We as an Authority, as we roll out ACTS, aspire,
2 will have a growth metric that we will be able to utilize
3 for schools across the -- across our portfolio, to make --
4 to make some degree of comparative -- to look at that
5 growth piece and look at it comparatively. But it's not
6 something that is -- that is in the framework now.

7 I would also note that Nevada Connections
8 operates under a charter contract -- sorry -- a written
9 charter. It was renewed prior to the passage of AB205 in
10 2013. And so while we use the framework as adopted by the
11 board in standard -- in standard form as -- as a form of
12 performance audit under -- under the -- under the
13 provisions that govern written charters, it does not have
14 the same force and effect for them. We use it as the
15 mechanism under the -- under the written charter for
16 determining whether the school is on track to the goals
17 and whatnot, as laid forth in statute. But they are
18 actually -- it is one tool used for two different
19 statutory purposes at current.

20 CHAIRMAN JOHNSON: Mr. Werlein, I thought you
21 were going to say something or --

22 MR. WERLEIN: I am going to add one more -- one
23 more thing about what we're doing this year.

24 We look very carefully at where each student is
25 when they enter our school, or if they are a returning

1 student, where they are, and we literally individualize a
2 tiered plan for them.

3 We have students that we know are on track to
4 graduate, that work within the general components of our
5 program, but they still meet with counselors, they still
6 have an advisory teacher, they still have a homeroom
7 teacher. And we have a large percentage of those
8 students, like I said, that just with those programatic
9 pieces are going to graduate on time.

10 But we also know that we have students that are
11 between two to six credits behind. Those are the ones --
12 I mentioned the family system. They're assigned to a
13 faculty mentor, and they are literally owned by that
14 faculty member. And through using grad point for credit
15 recovery, but also making sure those students stay engaged
16 in school -- we want to get as many of them that are
17 deficient, across the stage. And those are the results.

18 Those are the programs that I think, just by the
19 end of this year, there are going to be results. We are
20 going to see an improvement. And I think as we refine
21 those processes -- we know we are going to continue to get
22 students late in the year from other schools for a variety
23 of reasons, and we don't want to make excuses for that.
24 It's just a matter of reality. It's going to happen. But
25 by keeping these things in place that we're doing, and

1 improving them and refining them and enhancing them, we
2 will see continued improvement. But we will see it this
3 year, as well.

4 MS. GRANIER: Thank you. For the record again,
5 Laura Granier.

6 We've talked a lot about process. And I won't
7 repeat myself, but there are a few more procedural points
8 I want to raise, and then a few legal issues I need to
9 raise for your consideration.

10 First, with respect to process. There seems to
11 be a pattern here that is concerning to us, and should be
12 concerning to you. And whether that's a result of
13 understaffing or budget issues, it must be addressed. And
14 that is, a school must be able to have this conversation
15 with your staff before it gets here. The questions that
16 have been raised by you are good questions, and we are
17 happy to provide that information. We've heard some
18 questions from staff for the first time today, and we
19 would be happy to provide that information. But you need
20 a process where, at a minimum, those kinds of
21 conversations take place before we show up on an agenda
22 for a notice of intent of closure.

23 To respond to Member Wahl's question -- I think
24 our principal responded to you, as well -- but the school
25 has absolutely been looking at that and working on things.

1 And, in fact, we came -- we participated in the last
2 legislative session when SB509 was being considered,
3 because we said -- we told legislatures, just as we are
4 telling you -- it is going to be a significant problem if
5 you -- if you start closing schools based on this single
6 data point. And, again, that took us back to, that's why
7 it became discretionary. And the promise was made that it
8 would be based on compelling evidence, not on a single
9 data point. So there has to be that opportunity.

10 But after the legislative session, given the
11 promises that were made about flexible graduation rates,
12 and disaggregation of data in order to respond to those
13 concerns -- and those representations were made by
14 legislators who were making the decision about what to
15 write into the statute, by Dr. Canavero, by Patrick Gavin
16 on behalf of the Authority. And the assurance was, you
17 know, "We are going to make thoughtful decisions, and we
18 are going to look at a flexible graduation rate because of
19 the issues you're raising. We don't want policy in the
20 State of Nevada that discourages or punishes schools for
21 serving these credit-deficient students. Where are they
22 going to go if we close the schools down that are serving
23 them because they are serving them?"

24 So we followed up in September, as you heard from
25 our board chair -- our board president this morning. She

1 unfortunately had other business because we didn't think
2 we would get a chance to speak on Agenda Item 6. We
3 thought we would be limited to public comment.

4 But she and our principal and I met with Mr. Ott
5 and Mr. Gavin in September of last year to follow up on
6 that discussion, to follow up on this very concern,
7 because we were worried about this happening. And we
8 said, "We need to work with you on this. We know our
9 graduation rate is an issue if you look at just that
10 number. We don't want to be blind-sided. We want to have
11 a meaningful dialogue. We want to show you that we want
12 to fix any issues. We want to tell you about what we're
13 doing." Just like Mr. Werlein did today in response to
14 Member McCord.

15 And the majority of that discussion was focused
16 on how we were tracking students from -- who were
17 withdrawing, and making sure we knew where they were going
18 and how we were recordkeeping. And as Director Gavin
19 spoke earlier, he said, you know, it's a complicated
20 process. And the student leaves one school and they've
21 got to figure out where they've gone before they're
22 actually accounted for.

23 And we talked about, you know, we've got a
24 process in place to try to find those students. We don't
25 always find them. And when we don't find them, they count

1 against our four-year cohort graduation rate.
 2 And he said, "Well, if you have to, you hire a
 3 private investigator." We got feedback. The school has
 4 improved upon that process.
 5 But in response to the other issue we raised,
 6 which is, "We don't want to be blind-sided and show up on
 7 an agenda for closure under this graduation rate," we were
 8 told, "You don't have to worry about that. You've got
 9 time. The Authority has bigger fish to fry."
 10 So we did take action, affirmative action, to go
 11 and ask, "How do we work with you to make sure that we
 12 don't have to be before the board on a notice of closure?"
 13 And we were told, "There's time." And the next
 14 communication we got on the issue was the public agenda in
 15 February. So there's got to be a process, and this board
 16 should make sure that there is a process.
 17 There was a regulatory workshop in January that
 18 was mentioned earlier today. There were -- part of that
 19 regulatory workshop included definitions of key terms,
 20 including "metrics." And that's important to why we're
 21 here today, as well, because "graduation rate" is not
 22 defined in SB509.
 23 You've heard people talk about different
 24 graduation rates. You've heard about the flexible
 25 graduation rate and how you're accounting for this

1 information. And so if you are going to not consider
 2 other evidence before you issue a notice of intent to
 3 close based on this sole data point, the least you should
 4 do is understand the students behind that data point, if
 5 you're not going to look at mobility rates and other
 6 issues. So I think there should be a regulatory process
 7 to define that.
 8 There was an effort to initiate that process.
 9 There was a single workshop. We provided -- we
 10 participated in that workshop. We were hopeful. We spoke
 11 to Director Gavin. We provided comments. And I am not
 12 sure what the next steps are in that workshop. We have
 13 not heard.
 14 But given that the regulations have not been
 15 adopted, it is unlawful ad hoc rule making to make
 16 decisions now, without having any regulations in place to
 17 give people notice, fair notice, about how you're
 18 calculating graduation rate and -- and what steps -- what
 19 the process looks like.
 20 MR. GAVIN: Ms. Granier, may I just ask -- I want
 21 to confirm something with counsel, if you will allow me?
 22 Mr. Ott, can you confirm, is there a regulation
 23 in place that specifies the requirements for notices of
 24 closure and -- and for -- and for hearings?
 25 MR. OTT: Are you talking about a hearing prior

1 to a notice of closure?
 2 MR. GAVIN: I am specifically asking, is there a
 3 current -- number one, is there currently a regulation on
 4 the books which applies to the Authority as a sponsor,
 5 which addresses the issue of whether a charter -- of how a
 6 sponsor is to conduct the process of either revoking a
 7 written charter or terminating a charter contract?
 8 Specifically, I am asking you to report to the board, what
 9 is the content of NAC 386.330.
 10 MR. OTT: Yes, there is such a regulation. I was
 11 just trying to figure out if you were asking the question
 12 about whether -- the existence of that regulation, or
 13 whether there is statutory authority requiring a hearing
 14 prior to the issuance of a notice of closure, which was
 15 the question that I thought you were going to ask. But I
 16 think you've, in effect, answered your own question.
 17 MR. GAVIN: So that is -- I wish to make sure it
 18 is very clear on the record to the members of the
 19 Authority and to those assembled, that there is in fact a
 20 regulation in place. It was adopted in the 2014
 21 legislative session. It is R0 -- and it is currently
 22 listed in the Nevada register under the title R035-14A.
 23 It is Section 44 of that regulation. Which says:
 24 "NAC 386.330 is hereby amended to read as
 25 follows: If the sponsor of a charter tool" -- "charter

1 school intends to revoke the written charter or terminate
 2 the charter contract as applicable pursuant to
 3 NRS 386.3" -- ".535, the sponsor shall notify the
 4 governing body of the charter school pursuant to
 5 Subsection 2 of NRS 386.535 by certified mail."
 6 And secondly: "Two, if the board of trustees
 7 ever calls a university's" -- so basically it's, we have
 8 to -- we have to let the department know if it's someone
 9 other than the -- other than the department. And we must
 10 set forth the evidence that the sponsors made -- that the
 11 sponsors admitted in termination, pursuant to Subsection 1
 12 of that -- of that, and then describe the findings of the
 13 sponsor that authorize revocation of the written charter
 14 pursuant to NRS 386.535.
 15 I would submit this is the process we are going
 16 through right now. This -- this body is the sponsor, not
 17 me. They are determining whether a notice of closure
 18 should be issued. That is what is currently here.
 19 I sympathize with the school's point that it
 20 would be nice to have a requirement that staff have a
 21 separate conversation with schools beforehand. I would --
 22 I would submit it would be nice if there was a -- if there
 23 was -- if there was some mechanism in place to do the kind
 24 of in-depth data analysis of -- of non- -- of data that is
 25 not reported by State or some other entity. Neither of

1 those things exist at this time. I just -- I wish to be
2 clear that the Authority -- that this is not an attempt at
3 ad hoc rule making.

4 Ms. Granier is correct. There was a workshop
5 where we were actually trying to dig into doing this
6 better. Those regulations are not yet in effect. They
7 have not even come before this board for consideration.
8 They are still -- we're still dealing with just getting it
9 scheduled with LCB for them to even look at this stuff,
10 because they're also very stretched.

11 We know that -- I mean, the changes that were
12 adopted in R035-14A were adoptions of change -- of -- were
13 changes based on the 2011 legislative session three years
14 later. It takes a very long time for new regulations to
15 work their way through, because it is a very deliberative
16 consultative process.

17 There is a regulation in place that currently
18 governs this, that counsel has advised me is sufficient,
19 and that we're -- we're making every effort to follow. I
20 just wished -- I just want to make sure that is on the
21 record. I appreciate Ms. Granier's concerns, and I
22 sympathize. We -- there are rules that currently exist
23 that we are -- that we are following.

24 CHAIRMAN JOHNSON: Member Wahl.

25 MEMBER WAHL: Member Wahl. I'm sorry. Mrs. --

1 MS. GRANIER: Granier.

2 MEMBER WAHL: -- Grain --

3 MS. GRANIER: Granier.

4 MEMBER WAHL: -- Granier. So earlier in the day,
5 in another school's discussion, we had two attorneys agree
6 on what a defined graduation rate was.

7 (Inaudible.)

8 MEMBER WAHL: I know. Our own -- well, not
9 our -- Patrick's DAG, and then Silver State's attorney.

10 Both agreed that a definition of a graduation
11 rate is that which is published by the NDE. That's the --
12 that's one basic that two lawyers agreed on today. So you
13 can disagree on that if you want to.

14 What I would like to ask is, what do you think is
15 compelling evidence? If we were to go by the published
16 NDE graduation rate as the end-all and be-all of the
17 graduation rates, what were Nevada Connections Academy's
18 graduation rates in 2012, '13, and '14?

19 MS. GRANIER: I think our principal can respond
20 to that. But the compelling evidence I would say is, as
21 was promised at legislature, it would not be based on a
22 single four-year cohort graduation rate calculated under
23 the NCLB.

24 MR. GAVIN: May I -- may I address that
25 representation, please?

1 Ms. Granier, I am reviewing the -- my testimony.
2 And to be clear, this was -- so this -- so the sequence of
3 events here was, this was the hearing before Assembly
4 Education of SB509. There was voluminous public comments.
5 Ms. Granier was one of the individuals who provided
6 comments in neutral. Ms. Granier made a -- made some
7 representations, which I will quote.

8 "The reference in Section 27, Subsection 1,
9 paragraph (e) mentions having below a 60 percent
10 graduation rate for the preceding year. My understanding
11 from discussions with Director Gavin and Chair Conaboy of
12 the Authority is that it should be a reliable, valid
13 number, meaning, it would in fact take into account data
14 that demonstrates that there is in fact student growth,
15 the school's performing as expected, required, and
16 negotiated under the performance framework set forth in
17 the charter contract, but it would not create
18 circumstances where a school would be closed simply
19 because it was serving credit-deficient students, and that
20 data has not been disaggregated so the graduation rate is
21 not reliable" -- "necessarily reliable." Pardon me.

22 Okay. Now I am going to move down to my rebuttal
23 comments at the -- afterwards. So following the end of
24 public comments I was asked to come up. And here --
25 here's the entirety of my statements, versus the pieces

1 that were cited in -- and it is your role to build as
2 strong a case as possible for -- for your client. So I --
3 but I just wish to put -- make sure the entire piece of
4 the -- the entire -- the entirety of the information is on
5 the record.

6 So what I said -- and this is, by the way, is
7 page 38 of the -- of the Assembly Committee on Education
8 Minutes from May 27, 2015. This can be found on NELIS for
9 those of you who wish to look it up.

10 "I want to thank this body for your indulgence in
11 this conversation. I appreciate the thoughtful questions
12 and feedback. We think this is a really strong bill. I
13 want to emphasize that Senate Bill 460 deals with the
14 question of how to hold a school that is serving a large
15 alternative population accountable. We have taken pains
16 to work with the sponsor of that bill, Senator Harris,
17 Chair of the Senate Committee on Education, to ensure that
18 these elements are aligned. To the degree that we did
19 have a school that was serving an alternative population,
20 that the" -- "so that they would not be subject to an
21 arbitrary catch-22 situation. We do not want to do that;
22 we want to make sure that we are making thoughtful and
23 judicious decisions. To that end, we have also endeavored
24 to make sure that anything above that 'three strikes and
25 you are out' level is discretionary on the part of the

1 Authority or sponsor board so that we can take into
2 account those kinds of nuances. I would submit, however,
3 that in cases where a school has a 27 or a 37 percent
4 graduation rate and is not classified as an alternative
5 school, that is the kind of thing we would all agree is
6 not acceptable, and that we need to ensure that we are
7 looking very carefully at why that is and if there is some
8 kind of compelling explanation, certainly taking into
9 account, but also holding any school that is at that level
10 accountable."

11 So I just want to make sure the -- and just to be
12 abundantly clear, the school I was speaking of in that,
13 where I cited those two specific numbers, was in fact
14 Nevada Connections Academy. And the data points that I
15 was citing -- and I would admit I did it off the cuff, so
16 it's possible I -- my eye jumped.

17 So the 2011-12 grad rate for Connections was
18 26.5 percent, which, just to be clear, would rank it the
19 eighth lowest high school in the state --

20 (Background noise.)

21 A VOICE: Hello?

22 MR. GAVIN: -- and in the 8th percentile,
23 statewide.

24 One year later in 2012 --

25 MEMBER CONABOY: Excuse me, Patrick.

1 Mr. Chair, do we know what's going on? I can't
2 listen to two things at once.

3 CHAIRMAN JOHNSON: Is there someone that just
4 joined the line on the conference call?

5 MS. GRANIER: Our board president, Jafeth
6 Sanchez, has joined the line, and she has asked to
7 participate telephonically.

8 CHAIRMAN JOHNSON: Is there a way that you can
9 mute your line until you plan on speaking, Ms. President?

10 It sounds like she may have. Thank you.

11 DR. SANCHEZ: Am I able to get direction as to
12 when I may speak?

13 CHAIRMAN JOHNSON: Yes. If you could either text
14 someone at the table and let us know you would like to
15 speak, or you may have to wait for an open -- an open
16 break in the conversation.

17 MS. GRANIER: We'll give her a text when --

18 CHAIRMAN JOHNSON: Perfect. Thank you. So,
19 yeah, you'll be contacted when you're --

20 DR. SANCHEZ: Thank you.

21 MR. GAVIN: So the 2012-13 graduation rate for
22 Nevada Connections Academy was 36.08 percent, which ranked
23 it the 13th lowest school in the state, and in the 12th
24 percentile statewide.

25 Nevada Connections Academy in 2013-14 was at

1 33.91 percent, and was in the 10th percent -- which made
2 it the 11th lowest school in the state, and in the 10th
3 percentile statewide.

4 2014-15, which was, in fact, the year I was
5 thinking of, because it was -- because that data was
6 already released to us at the point when I testified,
7 Nevada Connections Academy was rank -- was 37.9 -- point
8 one nine percent with their grad rates, which again ranked
9 it the eighth lowest in the state, in the 6.8th
10 percentile.

11 And then -- and that, by the way, was the data
12 point that we had at the time we spoke in December --
13 sorry -- in September. Subsequently -- and that was also
14 the point when the school had assured us they were making
15 significant changes.

16 Subsequently, based on a review of the data that
17 was validated by the department and released publicly in
18 late December, and was reviewed by the Authority in --
19 earlier this winter, I will note that Nevada Connections
20 Academy in 2015-16, for that accountability class, had a
21 graduation rate of 35.63 percent, which again ranked it
22 eighth lowest in the state, and in the 6.8th percentile.

23 So I just want to make sure that's on the record,
24 what our -- certainly what my intention was, in
25 particularly stating that Nevada Connections Academy does

1 not have a mission to serve alternative students. It does
2 not have a -- it does not have an alternative population
3 that, based on the school's representations to us, at
4 least at this point, would meet the threshold for the alt
5 framework.

6 Hence, this whole discussion about nuance, which
7 was specifically related to the alt framework and making
8 sure that there was a segregation of the absolute floor
9 for any traditional charter school versus a school that
10 was truly serving an alt-ed population, that we were going
11 to look at those things differently.

12 I just want to be abundantly clear about what the
13 intention of the -- of what those remarks are. And I
14 believe that that is clear from context, from the full
15 context of the remarks. But I just wish to put it on the
16 record at this time.

17 I will say again, we -- I look forward to talking
18 to the school about what we can do to figure this out.
19 But what we have right now is a -- is an extraordinarily
20 unacceptable graduation rate.

21 CHAIRMAN JOHNSON: Member Wahl.

22 MEMBER WAHL: Am I allowed to find that this is
23 compelling evidence?

24 Oh, sorry. I'm so used to Greg.

25 MR. MCGAW: It is certainly within your

1 discretion. Ed McGaw for the record. But I believe it is
2 within your discretion, but --

3 MEMBER WAHL: I mean, without taking a formal
4 vote, I can personally say, I feel that this is compelling
5 evidence?

6 MR. MCGAW: Yes. It is certainly within your
7 discretion.

8 MEMBER WAHL: Okay. I feel that this is
9 compelling evidence, especially in light of the fact that
10 two attorneys agreed on what a graduation rate really
11 means. So if you guys want to fight what a graduation
12 rate means, that's up to you. But our DAG has spoken, and
13 I rely on him. And I personally find this compelling
14 evidence.

15 CHAIRMAN JOHNSON: Ms. Granier.

16 MS. GRANIER: Thank you. I would like to just
17 make two quick points, because there -- because of this
18 issue that was raised. And if you'd indulge me, I would
19 like to let our board president speak, and then finish my
20 presentation, please.

21 First, I'll address the point Director Gavin just
22 made. And I thank you for putting that on the record,
23 because I certainly was not trying to take anything, at
24 all, out of context.

25 The graduation rates that you just cited for the

1 years you've cited are exactly the reason we were
2 expressing our concerns to legislators about using the
3 single graduate, four-year cohort graduation rate
4 currently calculated under the No Child Left Behind Act as
5 a reason -- as a trigger to close a school. That's why we
6 were having those conversations.

7 And they agreed it was not an appropriate
8 mandatory trigger. They agreed, and they made it a
9 discretionary trigger. And I believe the context of my
10 testimony and your testimony was with respect to how that
11 discretion would be exercised, and that there would be
12 additional information considered.

13 When you talk about compelling evidence, I think
14 in accordance with the law and with standard
15 administrative agency law, agencies have to make their
16 decisions based on substantial evidence. So I found your
17 statement about providing compelling evidence consistent
18 with the law, with -- and so that's why we were there
19 making those statements and expressing those concerns, and
20 that's why we met with you in September.

21 And given that you had all of that data in
22 September, and -- and I do not recall, and I'll ask our
23 board president and our principal to put on the record --
24 I do not recall any discussion of significant changes at
25 that meeting. That's what we asked for the meeting for,

1 was so that we could have that conversation, and the
2 conversation didn't happen because we were told, "We have
3 bigger fish to fry." So that's the -- the response to
4 that.

5 With respect to an alternative framework, we
6 heard earlier today, "Yes, this was all in the same
7 context. It hasn't been established yet," I believe. So
8 you can't say whether a school is in or out -- which makes
9 it another critical reason that you not rely on a single
10 four-year graduation cohort rate under No Child Left
11 Behind, to trigger closure of a school, without looking at
12 the students that are being served at that school and how
13 many of them are credit deficient, and what level.
14 Because that alternative framework has not been set up
15 yet, and the legislature was trying to address that
16 problem. And they also figured you would be able to use
17 your discretion in a reasonable way to consider that,
18 instead of a single number.

19 With respect to two attorneys agreeing to what
20 "graduation rate" means, two attorneys do not represent
21 everyone. And two attorneys can't replace rule making for
22 this body. And those two attorneys were making statements
23 with respect to a negotiated settlement with this agency.
24 So they're -- I respectfully submit, that doesn't mean
25 that the -- that the definition of "graduation rate" for

1 purpose of this statute is by any means settled.

2 And that takes us back to Director Gavin's having
3 pointed out to you that NAC 386.330 talks about notices of
4 closure and hearings. I was not -- let me be clear, and I
5 apologize if I was unclear -- I was not making the
6 representation to you that there is no regulation. As he
7 said, that regulation was adopted after the 2011
8 legislature. It was adopted in 2014. And then in 2015,
9 we had this significant statutory change that added SB509,
10 and added a serious trigger for closures, which includes
11 this graduation-rate issue.

12 And after that, everyone, I think, that
13 participated in the session and then in this rule making
14 believed -- and, in fact, Mr. Gavin just said they started
15 the rule-making process to incorporate the 2015 changes.
16 It hasn't been completed yet. We agree.

17 It is ad hoc rule making if something that needs
18 to be addressed in that rule making is now done here on
19 a -- on a one-by-one, one-off basis, without having made
20 the necessary regulatory amendments that flow from the
21 statutory changes. And that is what has not occurred.

22 So I just wanted to clear up those few points,
23 and I do know our board president is under time
24 constraints. And I'm so appreciative she called in,
25 because she is so committed to this school, so -- so we'll

1 shoot her a text so that she knows she can speak now.

2 DR. SANCHEZ: Can everybody hear me?

3 CHAIRMAN JOHNSON: Yes. We can hear you loud and
4 clear.

5 DR. SANCHEZ: Okay. Thank you, everybody. I was
6 there this morning. This is Dr. Sanchez, Nevada
7 Connections Academy Board President, for the record.

8 And as was mentioned earlier, it's spring break
9 for a lot of individuals, and that includes the University
10 of Nevada, Reno, and, therefore, that includes my care
11 provider, who is also on spring break. So I was there
12 this morning while my child was with daddy, and I am back
13 with him, but I'm on the call, nonetheless. I've been
14 streaming it and watching everything very carefully.

15 There are so many things that are concerning to
16 me that I've heard from the Authority, beginning with
17 being asked to provide data right now, during a public
18 hearing, without ever being given an opportunity to do so
19 prior to today.

20 Again, it brings the concern of having this
21 notice of closure supposedly being an ultimatum or a final
22 opportunity to provide information, when there has never
23 been one opportunity to provide that information, which
24 Ms. Granier has pointed out on various incidents today.
25 And I echo all of that. And I echo everything that has

1 been said of virtual schools overall.

2 I heard a board member say that they didn't
3 realize multiple schools were on the agenda. And I'm not
4 sure where that came from, or why that would be the case,
5 that being a board member. I'm not sure if I
6 misunderstood, and I would be happy to get clarification
7 of that. But, again, that concerns me that we're here for
8 this particular reason, and there would be that lack of
9 knowledge.

10 Another asked to provide data on the slide for
11 verification of the characteristics of this school or the
12 students, and then mentioned that the characteristics
13 don't matter. But yet, again, we're emphasizing that
14 we're focusing on one data point, and that one data point
15 includes contextual information.

16 I teach in my master's classes for aspiring
17 principals to make data-based decisions. And that's what
18 I'm asking everybody here to do is make a data-based
19 decision, not on one data point, but on valid, reliable
20 data that's reflective of quantitative values and
21 qualitative values. And I ask you to consider today's
22 testimony as part of that qualitative data that's going to
23 inform your decision today to vote "no" for Nevada
24 Connections Academy.

25 And further notice. I also wanted to point out

1 that another board member asked information and said,
2 clarify, "Please clarify if I'm wrong about the Nevada
3 school performance framework."

4 How is it that there's a board member on our
5 Authority who is not familiar with the Nevada school
6 performance framework, and lacks an opportunity or
7 knowledge or depth in understanding that there actually
8 isn't a direct alignment with what happens in a
9 traditional brick-and-mortar charter school and NSPF, and
10 the way that our charter schools are evaluated?

11 In addition, our own Mr. Gavin asked that we
12 create a data set with input to verify information. I'm
13 sorry, but, honestly, I believe that's part of your role
14 as Authority board members and as an Authority to provide
15 that guidance and direction to facilitate all the
16 opportunities for our schools to be able to follow what
17 you want as an expectation, so that we can meet those
18 expectations.

19 We can build our own expectations. We do create
20 our own expectations. We're very aware of that graduation
21 point. And we have been putting things in place to make
22 this a better school for our students, our families, and
23 the community at large, and the state as a whole.

24 However, I would like to question how many have
25 joined -- excuse me -- how many have joined the live Life

1 Center? How many have come to this school to see the
2 teachers and to meet -- to be able to know this
3 information? All the questions that have been asked today
4 are questions that could already be known with engagement,
5 with dialogue, with open, transparent communication.
6 That, again, has not been afforded to us -- has not been
7 afforded to me.

8 In my data-based decision-making class -- again,
9 I emphasize that you do this today. I'm not sure why the
10 Authority earlier in -- in the call this week with Patrick
11 Gavin, why he reiterated in his -- and has alluded to
12 today -- that you don't have the ability to verify data.
13 I'm sorry. My understanding was that as the Authority
14 that is the role, to be able to verify data, to hold us
15 accountable.

16 But I want to turn it a little bit and ask:
17 Where is the accountability from the part of those of you
18 who are supposed to be supporting our efforts rather than
19 being punitive and rather than focusing on the deficit
20 model, which has long been part of the issue in our
21 educational system?

22 I would like to see a system perspective where
23 it's not one data point, where it's not one individual
24 set, with not one snapshot, but rather, it's something
25 that is holistic, that's proactive, that can make an

1 impact and that can really lead to logical means of
2 improvement throughout. We have the opportunity. We have
3 the capability. We have a very diverse board.

4 If any of you are up-to-date on the recent
5 literature about how critical board members are for
6 helping to create change, it is imperative that the board
7 understand the -- the critical issues that happen. It is
8 imperative that there's an engaged board. And we have
9 that. It's essential that we have a diverse board, and we
10 have that, not only from novice -- less than three-year
11 faculty; half of our composition -- to -- to more
12 experienced for our board.

13 I just cannot reiterate how difficult, how
14 concerning, how disheartened I am to be watching this via
15 a live feed and know that there are so many things that
16 could be answered prior to what it has come to, which is
17 right now. And I ask you again to vote "no."

18 And please understand that we are more than
19 capable and willing to be able to -- to move forward
20 proactively, rather than reactively under punitive
21 measures from a deficit perspective, because that's not
22 what we do in Nevada Connections Academy. And that's why
23 we accept all students and why we have that contributing
24 factor of our lower graduation rates.

25 CHAIRMAN JOHNSON: Thank you, Dr. Sanchez. This

1 is --

2 A VOICE: Chairman Johnson?

3 DR. SANCHEZ: (Inaudible) questions of me?

4 CHAIRMAN JOHNSON: Are there any questions of
5 her?

6 No, Ms. Sanchez, there are none. Thank you,
7 though.

8 MS. SANCHEZ: Thank you for the opportunity to
9 join via virtual, which I hope exemplifies that this is
10 what we are and this is our motto, and we can still do
11 things this way. Thank you.

12 CHAIRMAN JOHNSON: You're welcome.

13 MS. GRANIER: Thank you, Chairman Johnson. And
14 we appreciate the (inaudible) to have our board president
15 call and participate in that manner.

16 Application of SB509 in this manner is
17 retroactive and unlawful. The Nevada Supreme Court has
18 been clear that a statute has retroactive effect when it
19 takes away or impairs a vested right acquired under
20 existing laws, creates a new obligation, imposes a new
21 duty in respect to transactions or considerations already
22 passed. A statute must not be applied retrospectively
23 unless such intent is clearly manifested by the
24 legislature. The presumption is against retroactive
25 application unless it is clear the drafters intended the

1 statute to be applied retroactively.

2 And I'm quoting the United States Supreme Court,
3 who said:

4 "Elementary considerations of fairness dictate
5 that individuals should have an opportunity to know what
6 the law is and to conform conduct accordingly. And
7 settled expectations should not lightly be disruptive.
8 Central to the inquiry of retroactivity is fundamental
9 admissions of fair notice, reasonable reliance, and subtle
10 expectations."

11 That is squarely within everything we have been
12 discussing today. Settled expectations. This school got
13 their charter nine years ago, and they have been
14 effectively serving schools for all of that time.

15 And they are not under a charter contract. They
16 are, as you heard, still under that charter. They have
17 complied with legal requirements. They have served
18 students well.

19 This issue came up in the last legislative
20 session. We actively participated. And there is a
21 significant legal question as to whether it can be applied
22 the way it is being suggested to you, in this manner, in a
23 retroactive way, where a school has a charter in effect,
24 based on old data -- a graduation rate from 2015 that was
25 completed also before this statute came into effect --

1 without so much as considering the information behind
2 those numbers that we're trying to present to you, having
3 a meeting to hear what the school is doing and providing
4 an opportunity to look at the meaningful data.

5 We have vested rights in our charter, and we have
6 a performance framework, an established law, and we rely
7 on those and we have performed under those. We did not
8 include in -- you did not include in granting the charter
9 this 60 percent graduation rate trigger for closure.
10 There was no notice. And we've talked about that.

11 And the -- and the definition issue of
12 "graduation rate" is important, especially in the way it
13 is being suggested to be applied here, which is arbitrary
14 and based on old data. It looks to be a "gotcha," using
15 old data and a new law that does not say anything about
16 being applied retroactively, to try to shut down a school
17 with no notice and not so much as a meeting with the staff
18 to have these kinds of discussions that we're having here
19 today before we're put on an agenda at a -- at a minimum.

20 You know, we have no minimum time to actually try
21 to graduate some of these kids that are included in this
22 graduation rate that you are considering for closure. A
23 child who comes to us 14 days before graduation is
24 considered a dropout under that number.

25 These -- we've provided you significant details

1 about every student at the school in our letter, and where
 2 they are. Almost half of our students are credit
 3 deficient when they enroll in our school. What that means
 4 is, even if every single one of our kids accumulated
 5 credits at a normal on-track rate from the moment they
 6 enrolled, our graduation rate would still be barely over
 7 50 percent. That is penalizing this school for serving
 8 kids who have not done well in other schools, who have
 9 gotten behind and need a different option. And they have
 10 chosen us, and they are coming to us and succeeding. But
 11 the school gets no benefit from that success. Other
 12 states, like Arizona, give you credit for taking
 13 credit-deficient students and getting them back on track.

14 If you look at our numbers, 70 -- I think it's
 15 74 percent of the students in that non-graduate number
 16 that you're considering in the 35 percent graduation rate,
 17 came to us credit deficient. Some of the students who we
 18 did graduate within that 35 percent four-year cohort
 19 number, under No Child Left Behind that's being used, some
 20 of those students successfully caught up. They came to us
 21 behind, and we caught them up and we did graduate them.

22 So using this single data point without any
 23 information is not compelling evidence. It's arbitrary
 24 and capricious.

25 There's further retroactive problems here. And

1 in the backup materials there's discussion of Nevada
 2 freezing the current list of priority schools as of
 3 December 10, 2015. So there will be -- you know, there's
 4 a suggestion that those schools will be frozen as of -- if
 5 they were considered a priority school, on December 10,
 6 2015. They are frozen there, and they will continue to
 7 implement their interventions for 2015-16, and '16-'17.

8 You know, we have, I think, a graduation
 9 improvement plan in place. And we're always willing to
 10 work on that. But I'm not aware of any intervention plan.
 11 There was no discussion of that prior to this appearing on
 12 the agenda. So where is this school? That just flags for
 13 you another problem with the retroactive application of
 14 this law.

15 The backup materials which were publicly released
 16 yesterday, I think around 4:00 p.m., for the first time,
 17 gave us notice that all -- there was -- that we were being
 18 identified for a notice of closure, not just on graduation
 19 rate, but for the first time we learned in the backup
 20 materials there was a citation to NRS 386.535,
 21 Section 1(g).

22 We had no discussion. We had no notice. We have
 23 no information, other than what is in the backup materials
 24 that were provided to the public. And those backup
 25 materials -- and actually strike that -- that statute

1 makes reference to performance issues, "being
 2 unsatisfactory as determined by the Department of
 3 Education pursuant to criteria prescribed by regulation by
 4 the department to measure the performance of any public
 5 school."

6 There is no -- so there is supposed to be a -- an
 7 NDE regulation. There's no citation to it. I asked for
 8 it before the meeting. No one from the -- no one from the
 9 Authority, representative from the Authority, could
 10 provide me the citation to that regulation.

11 The regulation that is referenced in the backup
 12 materials from 2014 doesn't apply. That talks about a
 13 definition of the -- of persistently underperforming, and
 14 that does not apply to us.

15 So here we are, once again, with another supposed
 16 reason to issue a notice of intent to close the school,
 17 and we don't understand why. And we don't even understand
 18 the regulation, because there's been no identification of
 19 it that's being referenced in support. 233b and due
 20 process require more.

21 As we've made reference earlier, and you've now
 22 heard in detail, there was a lot of talk about this at the
 23 legislature. Director Gavin has given you his testimony.
 24 This issue also came up, though, in the context of SB461,
 25 which was Senate Education Committee Chair Becky Harris's

1 bill to try to create individualized education plans for
 2 students to graduate, for these credit-deficient kids so
 3 that they would have an individualized plan to get them on
 4 track, which is frankly, I think something Connections has
 5 done for many years. So we collaborated with her, and we
 6 were thrilled to see it. And we raised this issue, I
 7 think, for the first time in the context of that hearing.

8 That discussion spilled over into SB460, and then
 9 also SB509. And the reason is, there's a -- there's a
 10 closure provision under SB460 and, of course, the closure
 11 provisions under SB509. And so we continued to have this
 12 dialogue about schools being concerned about closing them
 13 based on a single four-year cohort graduation rate.

14 And the response when she raised that issue in a
 15 hearing -- and I included this in the letter that we've
 16 provided you -- on Senate Bill 460, and she said, "We are
 17 going to hear from many charter schools today that are
 18 coming to us with concerns about being closed down based
 19 on this single data point."

20 And Dr. Canavero's response to that was, "We can
 21 have a flexible graduation rate if we need to." And our
 22 discussions with him at the time, in good faith, were, "We
 23 don't need new statutory language to address this policy
 24 issue that the legislators were so clearly concerned
 25 about" -- and that is, being punitive to schools for

1 serving these credit-deficient students -- "we can address
2 it under existing law."

3 And that is, I believe, the context by which
4 everyone moved forward in good faith that you would
5 exercise your discretion in a manner -- in a prospective
6 manner -- not retroactively, in a prospective manner -- in
7 a reasonable way based on evidence that included
8 information about the students behind the number and what
9 the school was actually doing. Again, our last official
10 communication from the school was that we were in good
11 standing. You've heard about our meeting last September.

12 You know, this Authority's mandate, statutory
13 mandate under NRS 386.509 is to collaborate with charter
14 schools and to create an environment in which charter
15 schools can flourish. And with all due respect to all of
16 you, this does not feel like an environment where charter
17 schools can flourish. It feels like an environment where
18 we are in turmoil, brought on by no notice and no meetings
19 and no information, and it is creating fear and it is
20 incredibly disruptive.

21 I was there and helped work on, collaboratively,
22 the bill that created this Authority. And there was so
23 much excitement behind it, to create a place where charter
24 schools could flourish and good policy could be made.

25 And that's all we're asking for. We're not

1 hiding from accountability and we're not hiding from
2 transparency. We just ask you to work with us the same --
3 and direct your staff to work with us, just as the
4 legislature directed you to do in the very provisions of
5 that statute.

6 We heard earlier, you know, statements about
7 other high schools, that when graduation rates come in,
8 questions are asked. And I understand from a -- you know,
9 my understanding was that was -- was, that's a reasonable
10 thing to do. You get this graduation rate and you're
11 going to act on it, or you're going to put a school on an
12 agenda to act on it, on a notice of intent to close. Then
13 you ask the school some questions.

14 Director Gavin clarified those weren't the
15 questions he was talking about. But that -- that is, I
16 think, the process that everyone anticipated and expects,
17 and I think that's what the law requires.

18 You don't have any information -- compelling
19 evidence? What is compelling evidence? That is having a
20 meaning behind that data point you're considering. Do you
21 know what kids are behind that number? Do you know what
22 students and their circumstances make up the students that
23 are missing from that number, those non-graduates? Did
24 you know before I just told you, and our principal just
25 told you, that 74 percent of those students, those

1 non-graduate students, came to us credit deficient?

2 That's compelling evidence. That's the information you
3 need to consider.

4 Did you know that that number counted as a
5 dropout against us? A student who was with us for
6 14 days? That's the kind of information that you've got
7 to consider as compelling evidence, not just a number.

8 There's a -- I think there's a question here and
9 there's some confusion, as well. The 60 percent
10 graduation rate trigger applies to a high school. We are
11 a K-through-12 school. We have one charter for 12 grades.
12 This body and the Authority has not approached us about
13 amending our charter or splitting off our high school. So
14 I am -- I think there's another procedural issue here.
15 You don't just skip a step. There certainly isn't
16 authority to shut down the entire school. It is solely
17 related to the high school. And we are a K-through-12
18 school.

19 Under NRS 233b.121 and due process, we think a
20 notice of closure in this manner is absolutely a contested
21 issue. And that's, again, where this rule making, ad hoc
22 rule making issue comes in and -- and some due process
23 comes in.

24 In order to issue this notice of closure you're
25 going to make a determination that there's a deficiency

1 here. You're going to make a finding that -- that it is
2 reasonable, and you have substantial evidence to support
3 you exercising your discretion to issue the notice of
4 intent to close. And that triggers due process
5 requirements and it triggers a requirement that there be
6 an opportunity for meaningful evidence to be provided and
7 considered.

8 Also mentioned earlier, I think -- and some of
9 the board members seemed very interested -- are changes
10 under the ESSA. Again, you are going to close a school
11 based on a retroactive application of a law for a single
12 four-year cohort graduation rate, calculated under the
13 No Child Left Behind Act, which I believe expires in
14 August of 2016. At which point, one of our significant
15 issues about these students, these mobile students that
16 I'm talking about who are with us for 14 days or for a
17 couple of months before the end of the school year, cannot
18 be counted.

19 And we have the citation. We've included that
20 discussion for you in the letter under the ESSA. But it
21 is mandatory that a student that is with a school less
22 than 50 percent of the school year will not be counted
23 against that new school's graduation rate. It will be
24 attributable to the school that was left. And we can
25 certainly provide you the citation. There is no -- there

1 is no wiggle room there. There is no discretion. States
2 can go higher than that and go up to, I think, as high as
3 90 percent, reflecting good policy.

4 Why should a school such as Connections, that is
5 taking in these students who need a place to go and
6 effectively serving them be punished for how the -- how
7 the children didn't succeed at their prior school? That's
8 what is happening when you don't consider that mobility
9 issue.

10 It's required to be considered under the ESSA,
11 and it would be arbitrary and capricious to not take those
12 kind of factors into account in exercising your discretion
13 under 509.

14 233b requires that in a contested matter all
15 parties be afforded an opportunity for a hearing. We
16 appreciate learning this morning that we get to
17 participate today. We think there may be issues
18 procedurally with how it was agendized, and especially
19 with the Subsection (g) issue being identified in the
20 backup materials with no identification to the regulation
21 that's even relied upon if it exists.

22 There's obviously a notice issue there. We can't
23 respond to it. We got it late yesterday. There is no
24 identification of the regulation, there is no ability for
25 us to try to even present you evidence or information on

1 that issue. That issue -- that -- that -- what we do know
2 about that is, it makes reference to us being a priority
3 school, identified by the department in 2015, June of
4 2015, I believe.

5 And we have looked at the NDE's website. And I
6 believe the NDE's own website that lists that is with
7 respect to only Title I schools. And on its face it says
8 the information isn't reliable because of the testing.

9 We are here to work with you. We believe that
10 there are legal concerns, and concerns of fundamental
11 fairness with what has gone on, that led to us being in
12 the position we are here today, on an agenda with an item
13 of a notice of intent.

14 We ask you to consider all of the information we
15 have put forward, and work with us. We don't want to
16 litigate. We want to serve students. We want a
17 compromise. We want a reasonable time period to show you
18 that we can improve.

19 What we don't want -- you know, the reason we
20 didn't ask for a continuance or -- is -- is -- to have a
21 continuance of this item hanging over the school, leaves a
22 great amount of fear and uncertainty for parents who are
23 making decisions for their school for the next school
24 year.

25 Given the lack of collaboration, communication up

1 to this point, I don't think a continuance is a fair
2 result. I think you should vote "no" on the notice of
3 intent to close and give us some opportunity to -- to work
4 with staff. We are here telling you -- and we have told
5 them and we went to them in September, saying, "We want to
6 work with you. We have come up with a meaningful plan."

7 We've talked about some of the terms that the --
8 that the Authority staff says they would like to see. And
9 we would like an opportunity to reach some level of
10 compromise with you that gives us a reasonable period of
11 time. Other schools are given three years to meet
12 requirements. We would like a reasonable period of time
13 to do that.

14 So we would ask you to consider voting "no." If
15 you are not voting "no," and there is -- then we would ask
16 for just a five-minute recess so that we can discuss the
17 item and whether there's another manner of compromise.

18 CHAIRMAN JOHNSON: Member Wahl?

19 MEMBER WAHL: You keep using the word
20 "retroactively." When is a graduation rate not
21 retroactive evidence? We get it after the fact. So are
22 you going to come before us every year and say, "That's
23 retroactive evidence"?

24 MS. GRANIER: No, Member --

25 MEMBER WAHL: Because that's what I'm hearing.

1 MS. GRANIER: No, Member Wahl, not at all. Thank
2 you for the question. For the record, Laura Granier.

3 What's retroactive about it is, the law was made
4 effective January 1, 2016. So if you are putting that in
5 place now and looking at it prospectively, and you get,
6 you know, this year's data, then I think you can look at
7 it once you have data after the law has become effective.
8 So I don't think it's always going to be retroactive.
9 It's only retroactive to the extent you try to apply it to
10 schools based on old data.

11 CHAIRMAN JOHNSON: Is there any other discussion
12 or questions for Ms. Granier?

13 Deputy Attorney General Ott.

14 MR. OTT: Deputy Attorney General Greg Ott.

15 Thank you, Chair Johnson.

16 Like Ms. Granier, I try to stay out of the way
17 with the law stuff so that the educators can talk about
18 the education stuff, which I feel like is the more
19 important component.

20 But Ms. Granier raised a couple of questions, and
21 I was taking notes. Because we've had some discussions
22 about some issues, but I'm learning of some things, so I
23 just want to be clear so that we can have further legal
24 discussions while the educators have education
25 discussions.

1 You believe that the graduation rate in SB509,
2 that reference is not clear? Is that true?

3 MS. GRANIER: That is true. I believe that
4 the -- that is not a defined term. And given the context
5 in which it was adopted, it requires either rule making or
6 for this body to consider other evidence, such as, you
7 know, "Who are the students behind the numbers being
8 identified as non-graduates?"

9 MR. OTT: Okay. And I apologize for my lack of
10 knowledge of the legislative procedure. Clearly you and
11 Director Gavin were in many hearings, while I was not.

12 Was there -- is there any testimony about a
13 request for clarification from the legislature as to
14 SB509's graduation rate? I mean, if it was unclear, I
15 would think that someone would have brought it up to the
16 legislature, since they were having closure be based on
17 something that the school doesn't understand.

18 MS. GRANIER: I haven't looked for that. I
19 think -- I believe everyone was acting under the
20 assumption that either there would be a rule making -- we
21 all know that the legislature doesn't define everything.
22 They leave most things to the agencies to define,
23 especially with respect to the laws that the agencies are
24 responsible for implementing.

25 But in addition to that, I think it was, again,

1 in the context of being considered with compelling
2 evidence, with evidence as to what information is behind
3 that singular number.

4 MR. OTT: Thank you. I would submit that it's
5 also possible that the legislature was using the
6 graduation rate as defined in the Federal regulations,
7 which is what the NDE reports. I think that's the term
8 that is basically understood. But we can agree to
9 disagree, and I don't want to hijack the discussion with
10 legal distinctions.

11 The other question that I wanted to ask is, you
12 continually -- or I guess another thing that I heard that
13 I guess is a little bit new, is the allegation that the
14 issuance of a notice of closure is a contested case.

15 Under 233b.032, which is the definition of
16 "contested case," which basically requires some sort of
17 administrative penalty and notice prior to that, my
18 understanding -- and I think our prior conversation was
19 that this is a hearing to -- regarding whether a notice of
20 closure issues.

21 Closure of the school would not be something that
22 happens at this hearing. It would happen at a subsequent
23 hearing after a cure period and after there was time for
24 discussions and evidence to be heard.

25 Your -- your contention today that this, in fact,

1 is a contested case would in fact require another notice
2 initially. Would that pre -- prior notice to this notice
3 also be a contested case?

4 MS. GRANIER: No. That's not my point. My point
5 is, whether it's 233b or through fundamental principles of
6 due process, there's an opportunity to present -- to have
7 notice, and an opportunity to present evidence to an
8 agency that is going to make a finding that results in an
9 adverse -- that creates an adverse consequence for an
10 entity and their rights. And that is what is happening
11 here.

12 So it's not -- it doesn't create this endless
13 spiral of notices. It is a matter of letting the school
14 know that there will be an -- a hearing on an intent, a
15 notice of intent to close, and then there is -- you know,
16 it's properly agendized.

17 And the reasons for the notice, as you've
18 provided in your backup last night, are presented to the
19 school so that we can come forward and present evidence
20 about why the notice of intent should close or not.

21 We appreciate the time that we've been provided
22 today, but it certainly was not a substitute -- especially
23 given one of the factors identified for -- for that due
24 process that I think is required.

25 MR. OTT: One final clarification. Deputy

1 Attorney General Greg Ott.

2 I appreciate that. So the hearing, you think, is
3 a -- an additional due process requirement, I'm assuming
4 under NRS 386.535, for the notice of closure to issue?
5 And then 233b gets you a second notice provision prior to
6 that first hearing. And there's no other process required
7 before that; right? So we're talking about notice, then a
8 hearing, then another notice, and then a hearing for
9 closure. Is that the process, as I understand you're
10 relaying it to me?

11 MS. GRANIER: Well, I wasn't relaying the whole
12 process to you, I was just making a point. And to be
13 fair, I haven't sat down and thought through the entire
14 process because, honestly, I believe I -- I know that
15 there is a cure. I know there is. If this Board were to
16 issue a notice of intent to close, yes, I understand there
17 is a cure period, and then there's a hearing before there
18 are closure -- you know, before the school actually
19 closes.

20 The point I am making, the single point I am
21 making, is that in order to issue a notice of intent to
22 close, this board must make a finding and it must make a
23 determination that there is a deficiency under the
24 statute, under SB509.

25 So it's got to take evidence. There's got to be

1 fair notice and opportunity for the school to understand
2 what the basis is of the closure, and come forward and
3 present evidence and information so it can be heard,
4 before the board makes a finding, that must be based on
5 substantial evidence, as to whether or not that deficiency
6 exists to issue the notice of intent to close.

7 It should not be simply, "There's a single number
8 here. It doesn't hit the 60. We're going to issue the
9 notice of intent to close, and then you can" -- "you can
10 have your hearing." I don't think that's compliant with
11 the law or good policy.

12 MR. OTT: Thank you. We can respectfully
13 disagree about whether additional process is required
14 before the statutory process is required under the
15 386.535. I just wanted to get a better feeling for how
16 far back you thought the process requirement went, so that
17 in the event that we do end up in further discussions I
18 can do a little bit of research and we can have productive
19 discussions.

20 So I think I get, now, that you foresee two --
21 two hearings for process, whereas I see there being only
22 one required under NRS 386.535 and SB509, and this would
23 be the initial notice phase, not the hearing phase.

24 I know that a lot of parents showed up here
25 saying that there was going to be a vote to close the

1 school. I don't want them laboring under the
2 misimpression. So I hopefully -- I tried to clarify that
3 with my prior comments at Silver State, and hopefully have
4 done a little bit more today to -- to ease some of that
5 concern. I know it's not all alleviated.

6 But I appreciate the dialogue here so that I
7 better understand your arguments, and hopefully the
8 parents better understand the legal distinction about the
9 process, and I'll try to take up no further time from the
10 chair.

11 CHAIRMAN JOHNSON: So is there any other further
12 discussion or questions for anyone here, either Director
13 Gavin, Deputy Attorney General Ott?

14 Member Conaboy.

15 MEMBER CONABOY: You know, if my mother were
16 here, she would say that it's just plain old good manners
17 to pick up the phone and call somebody when you are going
18 to do something contentious that will impact them.

19 We have four schools here this morning -- and I'm
20 only allowed to talk about three, but there are four
21 schools. In totality we are talking about affecting the
22 lives of 6,000-plus children and their families and the
23 school districts from which they come.

24 I think it's only common sense, as mom would say,
25 to give the schools prior notice and to sit down and talk

1 with them. And 99.9 percent of the discussion that's
2 being had here today could have and should have been had
3 before this issue even found its way to the agenda, from
4 my perspective.

5 And I've had multiple conversations with Mr. Ott,
6 and fewer conversations with Mr. Gavin of late, about this
7 topic, but everybody is harkening back to our founding
8 principle. And the founding principle of working with our
9 schools, building a strong charter school sector in this
10 state, allowing charter schools to flourish, implies and,
11 in fact, demands cooperation and collaboration with our
12 schools. So if we are going to proceed on notices of
13 closure, I am going to abstain on all four votes today.

14 CHAIRMAN JOHNSON: I think we are at a point
15 where we can actually make some decisions. Certainly we
16 want to entertain some -- a couple of different options in
17 terms of a motion.

18 Option No. 1, obviously, we continue this
19 discourse with the notice of closure, and we decide
20 whether we want to do that.

21 Director Gavin?

22 MR. GAVIN: Mr. Chairman, I am appreciative of
23 one or -- of many of Ms. Granier's comments. But if there
24 is some particular concern about one of the justifications
25 for one element of the -- of the backup, I would request

1 that, at the very least, that the Board take a "yes" vote
2 off the table while we can go back and make sure that that
3 is -- that that is addressed. I would not wish to -- to
4 undermine the effectiveness of a "yes" vote or the --
5 or -- and I realize I'm -- I'm losing my words, as it's
6 3:20 in the afternoon and we only have about 40 minutes
7 left before we have to evacuate this room.

8 So I would request (inaudible) that it's either a
9 "no," if that is your decision, or it is a vote to
10 continue.

11 CHAIRMAN JOHNSON: So I think there's a -- so,
12 given Director Gavin's recommendation and input, so it
13 would either be a "no" vote on this specific item, or we
14 can direct the -- I wouldn't say -- I would take a motion
15 to have us direct staff to go back and have further
16 conversation with -- with Principal Werlein and
17 attorney -- I'm sorry. I'm losing words, as well.

18 MS. GRANIER: Granier.

19 CHAIRMAN JOHNSON: -- with Ms. Granier, and then
20 this be taken off of the agenda, so --

21 MEMBER WAHL: Can I ask a clarifying question?

22 CHAIRMAN JOHNSON: Yes, Member Wahl.

23 MEMBER WAHL: So point of clarification. So,
24 Patrick, your contention is that that one issue that was
25 brought up -- nothing to do with all the graduation rates,

1 but the other thing that you referenced in them that they
2 weren't prepared for, that's the reason why you would have
3 us have a continuance?

4 MR. GAVIN: My -- well, yes. So the -- in
5 particular, the Subsection (g) of the statute, I want to
6 make sure that there wasn't an actual -- that -- since I
7 don't believe we have time before the end of the day for
8 me to sit down with counsel and make sure there was not
9 some kind of editing error or something like that in the
10 document --

11 MEMBER WAHL: Um-hum.

12 MR. GAVIN: -- I want to make sure that we --
13 that that is in fact what was intended, and it wasn't
14 something that was done inadvertently to -- and that --
15 and that Ms. Granier would, I would understand, be
16 concerned and confused about. And I don't wish to create
17 more problems.

18 MEMBER WAHL: Um-hum.

19 MR. GAVIN: Our intent here is to get the schools
20 to come to the table, to work through solutions, as was --
21 as -- as we believe the statute was designed to do.
22 And -- and so we -- I would respectfully request that you
23 either say "no" completely. Or whether you continue the
24 item, and should it come back at a later date, we will, of
25 course, make sure that if there is any -- if there's any

1 language change that needs to be made based on
2 consultation with counsel, that we do so.

3 And I will also commit that should that happen,
4 the school will get the information much further in
5 advance, and it will part of the ongoing discussion.

6 CHAIRMAN JOHNSON: Member Conaboy?

7 MEMBER CONABOY: Mr. Chair, I'm missing something
8 essential here. What good is a continuation going to do
9 us, for any of these schools? What it -- there's a 30-day
10 cure. These schools can't cure five years of
11 retrospective graduation rates in the next 30 days. What
12 good is a continuation going to do us? And they're going
13 to be back here with their lawyers talking about 233b and
14 the lack of due process until we all grow old sitting at
15 this table. I'm sorry. I don't understand. I think we
16 need guidance about a preferred action that needs to be
17 taken by the board.

18 I'm sorry to spring this on you, Mr. McGaw, but I
19 don't understand what a continuation will do for us, for
20 any of these schools. Because these are getting to be
21 very long meetings. We did this last month and the month
22 before, and it's not going to be different next month.

23 MR. MCGAW: For the record, Ed McGaw with the
24 Attorney General's Office.

25 I think with the continuance it allows you to

1 revisit this issue. If you do vote "no," and you do have
2 intentions that, if the talks break down and there is
3 substantial evidence to warrant revisiting this issue again,
4 I'd recommend that the "no" vote be qualified with the
5 idea that you could come back, based on whatever these
6 talks are, and revisit the issue of whether to issue the
7 notice of intent. Just to clarify the record, that a "no"
8 vote isn't saying, "We're not going to revisit this
9 issue."

10 And I think the continuance allows you to come
11 back, and the "no" vote, without any kind of explanation
12 or qualification -- you know, you want to say, I guess, in
13 essence, "without prejudice, you're voting no," so that
14 you can revisit this issue if circumstances and evidence
15 warrants it.

16 Does that answer your question?

17 MEMBER CONABOY: Only slightly. You've heard
18 today from several of these schools and from the
19 parents -- well, from the schools and their counsel,
20 particularly, that we don't have rules in place yet.
21 Mr. Gavin has started that process, but it's not finished.

22 What if we just decided that under 233b we need
23 to have regs so that the schools know the rules? So we've
24 got to take an eight-, six-, two-, four-, three-week or a
25 month or a year hiatus -- however long people think it

1 will take to get regs in place -- get our house in order,
2 have a process that people understand, and participate
3 with this board in bringing to fruition?

4 Regulated entities need to work with their
5 regulatory boards; right? Gaming, your regulated entities
6 work with you in the rule-making process.

7 We need to have structure around what we're
8 trying to do so we don't have a circus.

9 MR. MCGAW: Again, Ed McGaw with the Attorney
10 General's Office for the record.

11 And I think what I was trying to say is that if
12 you vote, you want to make it clear that, whether your
13 "no" vote here is saying, "We're just going to" -- "There
14 isn't enough evidence to bring the notice at this" -- you
15 know, or whether you want to, once the rules are in place
16 and once everything is established, that you can come back
17 and revisit this specific topic or based on these specific
18 results. And I think that's what the continuance would
19 accomplish.

20 But you can accomplish the same thing with the
21 "no" vote, and that would relieve the shadow of this
22 looming out there for you, at least for the charter
23 schools, until such time as you want to re-notice this for
24 a consideration of issuance of a notice of revocation.

25 If that -- I hope I answered your question a

1 little better?

2 CHAIRMAN JOHNSON: Member Wahl.

3 MEMBER WAHL: I am going to respectfully
4 disagree. I think we have laws in place. I think we have
5 contracts in place. I think it's obviously clear when you
6 start a charter school that your intention is to do right
7 by these children, to do right by the taxpayers, and that
8 a 30 -- I don't know where my papers are -- 33 percent
9 graduation rate is not acceptable. I just think that's a
10 standard that everybody should agree on. That is not
11 okay. The law says it's not okay. Our contract doesn't
12 want that. And I -- I don't know what good more
13 regulations and policies are going to do.

14 We don't have to intend it -- I mean, we don't
15 have to give them prior notice that we want to do a notice
16 of intent, a notice of closure. That's what today's
17 meeting is. We could carry this on forever and ever. I
18 don't want to.

19 CHAIRMAN JOHNSON: However, in relation to the --
20 the item that we have today, I think we do need to have
21 some sort of closure on the item itself to determine how
22 we are going to move forward. And so we could either, as
23 Mr. McGaw says, we could either vote "no" with some
24 qualification, or we can ask for a continuance of this,
25 which Director Gavin gave earlier. Either of which, I

1 assume, means that we are not going to be issuing that
2 notice of closure today. But it determines what the
3 pro -- what the steps will be in the very near future to
4 ensure that Director Gavin and the schools are working
5 together.

6 And then also, simultaneously we do need to, as
7 Member -- Member Conaboy mentioned, we do need to ensure
8 that we are getting our house in order and work on the
9 regulations, et cetera, which I think will be separate
10 from -- you know what I'm saying -- all the things that
11 Director Gavin will be doing with the schools.

12 So certainly I would be willing to entertain a
13 motion that would either, A, vote "no" on the possible
14 action to direct staff to issue a notice of closure, but
15 then also ensuring that we are directing the Authority
16 staff to work with our schools, or the motion of a
17 continuance.

18 MS. GRANIER: Member Johnson, could I just make
19 one comment? I apologize.

20 CHAIRMAN JOHNSON: Yes.

21 MS. GRANIER: I know you're deliberating.

22 I just want to address Member Wahl. We hear you.
23 And we are concerned. And we take that graduation rate
24 and the statutes very seriously, which is why we were,
25 like I said, at the legislature talking to Director Gavin.

1 We want to work with you. We want to work with your
2 staff. We are here to -- to try to talk through this and
3 reach a reasonable end.

4 We do agree that -- that rule making would be
5 appropriate. But we're working on improvement. We want
6 an opportunity to, you know, work on a plan of improvement
7 with a reasonable process, and some time. But we are
8 looking to increase our graduation rate, absolutely. We
9 just need appropriate time and notice and collaboration to
10 do that. Thank you.

11 MR. GAVIN: Let me -- let me -- and, again, I
12 also apologize for interrupting deliberation.

13 It is staff and staff's counsel's contention --
14 and, Mr. Ott, correct me if I -- if I am wrong -- that
15 while additional rule making is desirable and, in fact, it
16 is something that is required for us to do as a general
17 principle at this point -- there are rules in place.
18 There are plain and clear statutory definitions.

19 If we kick this can down the road, there will
20 always be changes. There will -- rule making will
21 essentially always be a -- this will always be an issue.
22 By the time the rules are established, the statute will
23 change again.

24 This is a structural challenge in a -- I mean, we
25 have a -- we have education committees in both houses of

1 the legislature. Every two years there are significant
2 policy changes. If we're going to be in a position where,
3 essentially, those policy decisions always neuter this
4 body's ability to do anything, then that's a problem.

5 I would -- I would contend that the -- that the
6 rules that are currently in place are sufficient for this
7 purpose, for something as clearcut as graduation rates.
8 And while -- and I -- and should this be something that
9 ultimately we are not able to settle, I would say this is
10 the kind of thing that should be litigated, because we do
11 need clarity on whether or not there is -- there are in
12 fact deficiencies in statute or policy or regulation that
13 should be addressed. And right now we've -- and -- and
14 should a court choose to provide guidance in those areas
15 based on a ruling, I think that would be valuable to us
16 and to the legislature.

17 CHAIRMAN JOHNSON: Thank you, Director Gavin.

18 So I would love to entertain some motions on how
19 we're going to move forward with Nevada Connections.

20 MEMBER WAHL: I'll make the motion.

21 CHAIRMAN JOHNSON: Member Wahl.

22 MEMBER WAHL: I'll make the motion that we are
23 continuing this item.

24 CHAIRMAN JOHNSON: Do I have a second of Member
25 Wahl's motion?

1 MEMBER ABELMAN: This is Member Abelman. I would
 2 second that motion.
 3 CHAIRMAN JOHNSON: Then all in favor of a
 4 continuance -- a continuance of this item to a later point
 5 in the future? I'll take a roll, because I think there
 6 may be some contention here.
 7 Member McCord?
 8 MEMBER MCCORD: No.
 9 CHAIRMAN JOHNSON: Member Conaboy.
 10 MEMBER CONABOY: I'm abstaining in protest to
 11 this process.
 12 CHAIRMAN JOHNSON: Member Mackedon? Vice chair
 13 Mackedon?
 14 MEMBER MACKEDON: Yes. I agree with the
 15 continuance.
 16 CHAIRMAN JOHNSON: Member Luna?
 17 MEMBER LUNA: No.
 18 CHAIRMAN JOHNSON: Then it sounds like the nos,
 19 have it, so that motion is denied. We are not going to be
 20 able to --
 21 MEMBER ABELMAN: Member Abelman.
 22 CHAIRMAN JOHNSON: Member Abelman?
 23 MEMBER ABELMAN: Yes. Yes.
 24 MEMBER WAHL: And Member Wahl, yes. That was
 25 three yeses to two nos.

1 (Inaudible.)
 2 CHAIRMAN JOHNSON: Then I -- I will vote.
 3 I'm actually going to vote "no" on that, as well.
 4 I think it's -- so --
 5 MEMBER WAHL: Then it's a tie. (Inaudible.)
 6 CHAIRMAN JOHNSON: No, it's four, four-three.
 7 One abstained.
 8 (Inaudible.)
 9 MEMBER WAHL: She's abstaining. It's three to
 10 three.
 11 CHAIRMAN JOHNSON: So now what do we do? We
 12 have -- it is three to three. And do we have another
 13 motion that comes with that? Do we have to take another
 14 motion?
 15 MR. MCGAW: It fails. So you will have to
 16 bring --
 17 CHAIRMAN JOHNSON: The a motion for continuance
 18 is --
 19 MEMBER WAHL: Then the next one is going to be a
 20 "no," and it's going to be a three/three vote, and then
 21 what?
 22 MR. MCGAW: It amounts to no action on the
 23 matter.
 24 CHAIRMAN JOHNSON: So is there a better motion
 25 that can come to the floor than --

1 MEMBER WAHL: Then we take no action.
 2 MEMBER CONABOY: May I ask a question, Mr. Chair?
 3 CHAIRMAN JOHNSON: Yes, Member Conaboy.
 4 MEMBER CONABOY: I would like to ask Member Wahl
 5 what she intends to accomplish with a continuation.
 6 MEMBER WAHL: Member Wahl. What I want to
 7 accomplish is not putting a "no" on the record, so that
 8 they feel like we are giving them permission to have this
 9 crappy graduation rate.
 10 MEMBER CONABOY: And what would you like the
 11 school to tell its parents who are considering where
 12 they're going to send their children to school next year?
 13 MEMBER WAHL: That they're sorry for the bad
 14 performance they're doing.
 15 CHAIRMAN JOHNSON: So then there is a different
 16 motion that we could have where we could -- again, I think
 17 we all agree that what we want to see is continued
 18 conversation between the school and -- and the Authority
 19 staff, to be able to work through this process. Whether
 20 it's a continuance or not I think is -- I think we are, a
 21 little, splitting hairs.
 22 Member McCord?
 23 MEMBER MCCORD: Question to the attorney general
 24 if I could?
 25 By taking a "no" vote on this at this point -- in

1 other words, taking no action on that -- it dies for no
 2 action; correct?
 3 MR. MCGAW: I believe it's still on the agenda.
 4 So something has to be done to dispose of the matter.
 5 Maybe my colleague could correct me on that.
 6 MR. OTT: Deputy Attorney General Greg Ott.
 7 My position, and what I've advised other boards
 8 and councils that I've represented is that, without a
 9 motion having been carried, the board has taken no action,
 10 so it is as if the item was not gotten to for lack of time
 11 or for other items, that the Board has not officially
 12 taken an action in response to the item.
 13 MR. MCGAW: And one option that is -- Ed McGaw
 14 for the record. You can always remove it from the agenda.
 15 It would -- if you wanted to do that, as well.
 16 MEMBER MCCORD: Mr. Chairman, remove this item
 17 from the agenda.
 18 CHAIRMAN JOHNSON: Then I will -- actually, I
 19 will remove the item from the agenda -- oh, you know,
 20 before I do that --
 21 MR. GAVIN: May we clarify?
 22 CHAIRMAN JOHNSON: Just a second, Director Gavin.
 23 MR. GAVIN: Sorry.
 24 CHAIRMAN JOHNSON: If -- Mr. McGaw, if we --
 25 could we still give directive to staff to begin to have

1 conversations around working with the school? Again, that
2 is the one thing we actually all agreed upon is that we
3 wanted to make sure that these conversations were being
4 had, and they were more robust. I don't think we've
5 agreed upon what the next best step is.

6 That was -- that was directed to you --

7 MR. MCGAW: I'm sorry.

8 CHAIRMAN JOHNSON: -- Mr. McGaw. Thank you.

9 MR. MCGAW: I was in my own world there. Could
10 you repeat the question? I was rethinking everything.

11 CHAIRMAN JOHNSON: Without taking action on this
12 specific agenda item, could we -- could we still direct
13 staff to have additional conversations to try to get clear
14 on -- on the processes, and then also what the graduation
15 rates and et cetera, other -- other academic performance
16 that need to be and are?

17 MR. MCGAW: Yes, Mr. Chairman. That's fully
18 within your discretion.

19 CHAIRMAN JOHNSON: Director Gavin, you wanted to
20 add something else?

21 MR. GAVIN: Thank you, Mr. Chairman.

22 My primary question was actually not about this
23 whole directing of staff thing, but specifically about
24 making sure that by saying that we're taking -- that if
25 the Board is saying -- the question is: Do you wish to

1 take no action on this agenda item in its entirety, or
2 simply this -- the elements related to Nevada Connections
3 Academy? I wish to just be very clear.

4 So I could understand the board wishing, based on
5 lots of things, to choose to -- to just remove this in its
6 entirety. I just wanted to be very clear about what your
7 expectation was.

8 CHAIRMAN JOHNSON: Member Conaboy?

9 MEMBER CONABOY: Mr. McGaw, I've disclosed
10 previously that I represent K12, Inc., which is the EMO to
11 Nevada Virtual. Am I allowed to make a motion on this
12 entire agenda item, or do I need to sit back?

13 MR. MCGAW: I think because the agenda item was
14 meant for each item to be heard individually, that you
15 would have to abstain from the conflict, from that one,
16 but you could vote on the others.

17 MEMBER CONABOY: Just to be clear, I can't make a
18 motion that we postpone this entire agenda item until we
19 have our rules in place?

20 MR. MCGAW: I would say, again, on the ones that
21 can you vote on, you could make that motion. But the one
22 that you cannot, I would advise against it.

23 MEMBER CONABOY: Okay.

24 CHAIRMAN JOHNSON: Vice-Chair Mackedon?

25 MEMBER MACKEDON: Member Mackedon. I feel like

1 we are going to have this same conversation two more
2 times, so I would make a motion to postpone the entirety
3 of Agenda Item 6 until --

4 I would like to just inquire from Patrick, if you
5 feel like it's more appropriate that -- because obviously
6 this is going to come with a, you know, "Please work with
7 the parties involved" conversation. Is it more
8 appropriate for the April or May board meeting, just
9 thinking about everything else that's going on?

10 MR. GAVIN: I would -- and here is where I
11 struggle. I think, given the items that are already
12 slated for the April Agenda, that it would be challenging
13 to have a robust commutation.

14 Let me be clear. I think, regardless of --
15 unless -- unless there is a true meeting of the minds with
16 regards to a pathway forward that fixes the structural
17 issues and the performance issues, I do not -- I think it
18 is unlikely that staff and staff's counsel will concur
19 with the procedural objections raised by the schools.

20 I would also note that there are different --
21 that different schools are at different points on this,
22 and some are more willing to be collaborative on this in
23 the interests of children than others, and have
24 demonstrated that.

25 So I think May is the most appropriate timeline,

1 just given everything that we have to do. But that said,
2 what is discomfoting about that is that this creates yet
3 more uncertainty for parents. And that is something that
4 I think is a -- is a very tough thing.

5 There is a timeline on which these data points
6 become available. It is not ideal for these kinds of
7 decisions. That will always be an issue. And it is --
8 and it creates a wrenching experience for parents who --
9 many of whom, it is quite apparent, are having good
10 customer experiences at these schools, even if there is a
11 substantial subset of kids, who may or may not be
12 represented here, who have not been as successful.
13 Clearly there is a subset of parents for whom each of
14 these schools is wildly successful.

15 And many of the points that the school raises, I
16 think are important policy questions to be raised in the
17 2017 legislature, about, you know, "What should a virtual
18 school be?"

19 We had testimony from multiple parents saying
20 that these kinds of schools aren't for everybody.
21 Technically, it is a public school. It is supposed to be
22 for everybody as a -- as an open-admission public school.

23 That is a tension between the experience of the
24 satisfied customers who are getting what they asked for,
25 versus the ones who are not getting what they asked for,

1 or not -- or where the State is not getting what it asked
2 for. And that is an important issue.

3 And I -- and I applaud all these parents for
4 coming up and talking about the very good experiences
5 they've had at Connections, at Nevada Virtual, at Beacon,
6 at Silver State. I don't think anyone in this room -- and
7 certainly anyone on this staff -- thinks that -- that
8 these schools are -- have done terribly by every kid. But
9 there clearly is a subset of kids for whom this isn't
10 working, and it is a very large subset, particularly in
11 the case of Connections.

12 So, again, I think to answer your real
13 question -- sorry, Member Mackedon, I totally -- I totally
14 got off on a soliloquy here -- May is probably the right
15 timeline in terms of being able to have some meaningful
16 dialogue. I am hopeful that in the interests of kids and
17 in the interest of performance we can work around the
18 procedural objections and look at what it actually takes
19 to ensure that these schools are doing better by kids.

20 And so that -- and that is what staff is -- is
21 very willing to work with, with school (inaudible). But
22 there are many things that are out of our control and that
23 we cannot promise. And there are expectations that are on
24 us and on this body that we are expected to deliver on.
25 So, again, May.

1 MEMBER MCCORD: Mr. Chairman, I return to my
2 original item, and that is to pull this item with no date
3 certain for a return of the item. That does not preclude
4 us from having this item on the agenda again. But I would
5 suggest that we pull the item and move on.

6 CHAIRMAN JOHNSON: Member McCord, is that a
7 formal motion that you are making?

8 MEMBER MCCORD: It certainly is, sir.

9 CHAIRMAN JOHNSON: All right.

10 MEMBER MACKEDON: Member Mackedon. Second.

11 CHAIRMAN JOHNSON: So all in favor of pulling
12 this?

13 Now, can we just have some clarification, please,
14 Member McCord? Is that pulling the agenda item for all of
15 the four schools in question or just --

16 MEMBER MCCORD: I assume so, yes.

17 CHAIRMAN JOHNSON: Okay. I just wanted to make
18 sure we're clear. That was the last point of distinction
19 in the past.

20 Member -- Member Mackedon, you seconded that?

21 MEMBER MACKEDON: Um-hum.

22 CHAIRMAN JOHNSON: Before we take a vote, any
23 discussion?

24 MS. GRANIER: Thank you. Thank you, Chairman.

25 And I -- I just want to be very clear. I just want to be

1 very clear that we asked for the directive that staff work
2 with us, so we don't intend to lose any time, to address
3 Director Gavin's statement about, "in the interests of
4 time." We wanted to get to work last September. We will
5 get to work right away. If we can get staff to sit down
6 with us, we'll be there at their first convenience. So I
7 just wanted to -- okay.

8 MEMBER MCCORD: We don't plan to lose focus on
9 deficiencies.

10 MS. GRANIER: Yes, Member McCord.

11 CHAIRMAN JOHNSON: All in favor of Member
12 McCord's vote?

13 Member McCord, obviously I'll take your vote
14 first, in terms of pulling this item from the agenda and
15 with no --

16 MEMBER MCCORD: Yes.

17 CHAIRMAN JOHNSON: Member Conaboy?

18 MEMBER CONABOY: At member's -- or at counsel's
19 direction, I will abstain.

20 CHAIRMAN JOHNSON: Member Mackedon?

21 MEMBER MACKEDON: Yes.

22 A VOICE: Who was the second?

23 CHAIRMAN JOHNSON: Member Wahl?

24 A VOICE: Mr. Chairman, did somebody second this
25 motion?

1 CHAIRMAN JOHNSON: Member Mackedon.

2 A VOICE: My apologies. I just --

3 CHAIRMAN JOHNSON: Member Wahl?

4 MEMBER WAHL: I'm a no.

5 CHAIRMAN JOHNSON: Member Luna?

6 MEMBER LUNA: Yes.

7 CHAIRMAN JOHNSON: Member Abelman by telephone?

8 Member Abelman, are you still with us?

9 Member Abelman, last chance.

10 Danny, did you have anybody hang up on the line
11 there?

12 MR. PELTIER: Not that I know of. And I have no
13 messages from Member Abelman saying he was disconnected.

14 CHAIRMAN JOHNSON: I'll cast my vote. I'm a yes
15 on that. So I vote to pull this item from the agenda with
16 no -- with no stated date.

17 MR. PELTIER: Chairman Johnson, for the record --

18 CHAIRMAN JOHNSON: Member Abelman?

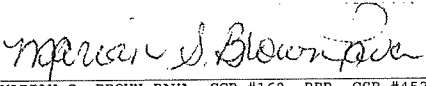
19 MR. PELTIER: -- Member Wahl's microphone I don't
20 believe was on for her vote. What was her vote?

21 MEMBER WAHL: Member Wahl was a no.

22 CHAIRMAN JOHNSON: Member Abelman, are you there
23 now?

24 At this point we have four yeses, one no, one
25 abstain, and one no -- one non-vote.

1 I think he's going to join. I don't think we can
 2 take his vote by text, however.
 3 That said, the yeses carry to pull this item from
 4 the agenda, and then we will move forward.
 5 (Inaudible) five-minute recess or are you good?
 6 All right. We'll -- thank you.
 7 (End of Partial Transcript - Agenda Item No. 6)
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1 STATE OF NEVADA)
 2) ss.
 3 COUNTY OF WASHOE)
 4
 5 I, MARIAN S. BROWN PAVA, a Certified Court
 6 Reporter in and for the State of Nevada do hereby certify
 7 that transcribed from a video/audio recording, the
 8 proceedings relating to Agenda Item No. 6, in the matter
 9 of Nevada Connections Academy, held before the Nevada
 10 State Public Charter School Authority March 25, 2016; that
 11 the foregoing partial transcript, consisting of pages 1
 12 through 102, is a true and correct transcript of the
 13 stenographic notes of testimony taken by me in the
 14 above-captioned matter to the best of my knowledge, skill,
 15 and ability.
 16 I further certify that I am not an attorney or
 17 counsel for any of the parties, nor a relative or employee
 18 of any attorney or counsel connected with the action, nor
 19 financially interested in the action.
 20 Dated at Reno, Nevada, this 11th day of October,
 21 2016.
 22 
 23 MARIAN S. BROWN PAVA, CCR #169, RPR, CSR #4525
 24
 25

1
 2 NEVADA STATE PUBLIC CHARTER SCHOOL AUTHORITY
 3 March 25, 2016
 4 Legislative Council Bureau
 5 2135
 6 Carson City, Nevada
 7 And
 8 Grant Sawyer
 9 4400
 10 Las Vegas, Nevada
 11
 12 PARTIAL TRANSCRIPT OF PROCEEDINGS
 13 FROM AUDIO/VISUAL RECORDING
 14
 15 NEVADA CONNECTIONS ACADEMY
 16
 17 AGENDA ITEM NO. 6
 18
 19 Consideration and Possible Action to direct Authority
 20 staff to issue Notices of Closure pursuant to NRS 386.535
 21
 22 BOARD MEMBERS PRESENT:
 23 Adam Johnson, Chair
 24 Elissa Wahl, Member
 25 Nora Luna, Member
 Melissa Mackedon, Vice-Chair
 Kathleen Conaboy, Member
 Robert McCord, Member
 Marc Abelman, Member (via teleconference)
 Transcribed By: MARIAN S. BROWN PAVA, CCR #169, RPR
 CALIFORNIA CSR #4525

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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 RICHARD VINEYARD, Ph.D. IN SUPPORT OF MOTION FOR TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION

I, Dr. Richard Vineyard, 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 lead project manager with Public Consulting Group, a management
3 consulting firm that primarily serves public sector education, health, human services, and other
4 state, county, and municipal government clients.

5 3. Prior to joining PCG in 2015, I was Assessment Director of the Office of
6 Assessment, Data, & Accountability Management for the Nevada Department of Education
7 (NDE) where I worked to supervise the development and implementation of all state level
8 assessments in Nevada. My career with the NDE spanned more than 17 years, during which time
9 I worked on many statewide education initiatives including the development of science content
10 standards and Nevada's first assessments in science.

11 4. I was also instrumental in the development and revision of content standards in all
12 areas and state level assessments in ELA, Math, Science and the Nevada Alternate Assessment
13 for students with disabilities. While at NDE, I was involved in the development of, and
14 amendments to, a large number of Nevada Administrative Code (NAC) regulations governing
15 the system of education in Nevada.

16 5. I have more than 25 years of teaching experience, beginning in 1991 at Weber
17 State University (WSU) where I worked with the Utah State Office of Education to develop
18 programs in support of teachers' professional development focused on introducing teachers in
19 grades 3-12 to national science education standards and the Utah Science Core Curriculum.
20 These efforts resulted in the grant funded program, "The Teachers As Scientists Program," in
21 1995. I went on to establish a similar grant funded program, Nevada Educators Really Doing
22 Science (NERDS), with faculty at the University of Nevada. NERDS focused on K-12 science
23 teacher development and ran from 2000-2011.

24 6. Based on my extensive experience in education and having reviewed information
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1 about Nevada Connections Academy (“NCA”) and the student population it serves, it is my
2 opinion that the four-year cohort graduation rate for the high school at NCA does not provide an
3 accurate or complete picture of the school’s performance or whether the school is effectively
4 serving its students.

5
6 7. Specifically, the four-year cohort graduation rate essentially penalizes the school
7 for accepting and serving credit deficient high school students. For every credit deficient student
8 NCA accepts, if that student does not “catch up” and graduate on-time – with their four-year
9 cohort, it will result in a decrease of NCA’s high school four-year cohort graduation rate even
10 though that student’s credit deficiency was a result of the student’s experience at prior schools
11 and not at NCA.

12
13 8. The four-year cohort graduation rate does not provide any “credit” or reflect
14 positive performance such as when NCA enrolls credit deficient high school students and
15 effectively reengages those students. Even if the student accumulates credits “on-track” with
16 NCA or catches up by accumulating extra credits with NCA, there is no reflection of that good
17 work by the school in the four-year cohort graduation rate. The best the school can get in such a
18 circumstance is to avoid a penalty in their graduation rate calculation if they are able to catch the
19 student up so that the student graduates within his or her four-year cohort.

20
21 9. Based on my experience and expertise in Education, I believe it is inappropriate to
22 evaluate school performance relying solely on a four-year cohort graduation rate calculation
23 without looking at information such as student population being served, credit deficient students
24 enrolled at the school and how those students have accumulated credits since their enrollment at
25 the school, and consideration of how long the students have been at that particular school. This
26 last point of how long a student has been enrolled at a particular school is of critical importance
27 because, for example, a student might enroll in a new high school for a matter of just days or
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weeks before the end of a school year and yet be counted within that school's four-year cohort graduation rate. What this means is that the four-year cohort graduation rate does not reflect the student's new school's performance as that new school has not yet had any chance to engage with the student in any meaningful way to demonstrate academic growth.

10. If one does not consider student population served and how long the students have been enrolled at the current high school, the four-year cohort graduation rate can be misleading by resulting in a lower graduation rate for a particular school simply because that school has open enrollment and has accepted credit deficient students into its high school.

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 31 day of October, 2016, in Sparks, Nevada.



RICHARD VINEYARD, Ph.D.

COPY TO BE PROVIDED

Sparks, Jenny

From: McIntosh, Caroline <cmcintosh@nvvacademy.org>
Sent: Tuesday, September 22, 2015 9:14 PM
To: Patrick Gavin
Cc: Danny Peltier
Subject: SPCSA Meeting on September 28, 2015

Hello Patrick,

Thank you for you vm this evening regarding agenda item #13 on the SPCSA board meeting scheduled on September 28, 2015. I was quite surprised upon seeing this agenda item when Danny Peltier forwarded the agenda in an email this afternoon, since we had no notice or conversation regarding the item regarding the enrollment at Nevada Virtual prior to reading the email.

Nevada Virtual was unofficially "restricted" from marketing enrollment to the school since June 2013. Finally, in the July 13, 2015, SPCSA meeting, the unofficial, anecdotal restriction was lifted. The consequence of the 25 months of lost opportunity to market enrollment has resulted in a significant drop in enrollment. The current net enrollment at Nevada Virtual Academy has again declined due to the late opportunity in the marketing season. Nevada Connections Academy was able to capture the marketing arena for the virtual education platform, which resulted in a growth in its enrollment.

If you would like me to provide an anecdotal report regarding enrollment at Nevada Virtual Academy at the September 28, 2015 SPCSA board meeting, I am happy to oblige. Otherwise, Nevada Virtual Academy will submit the required amendment at a later SPCSA meeting.

Best regards,

Caroline



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Head of School

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From: [Robert McCord](#)
To: [Patrick Gavin](#)
Subject: 378
Date: Wednesday, December 02, 2015 5:05:23 AM

I guess I am wrong, unless 387.1233(4) applies. I believe it does apply to Nevada Virtual because they admitted reducing enrollment from 4500 to 2400 didn't they?

RSMc

NRS 387.1233 Calculation of basic support; effect of declining enrollment; consequences for school district or charter school that deliberately causes decline in enrollment.

1. Except as otherwise provided in subsection 2, basic support of each school district must be computed by:

(a) Multiplying the basic support guarantee per pupil established for that school district for that school year by the sum of:

(1) Six-tenths the count of pupils enrolled in the kindergarten department on the last day of the first school month of the school district for the school year, including, without limitation, the count of pupils who reside in the county and are enrolled in any charter school on the last day of the first school month of the school district for the school year.

(2) The count of pupils enrolled in grades 1 to 12, inclusive, on the last day of the first school month of the school district for the school year, including, without limitation, the count of pupils who reside in the county and are enrolled in any charter school on the last day of the first school month of the school district for the school year and the count of pupils who are enrolled in a university school for profoundly gifted pupils located in the county.

(3) The count of pupils not included under subparagraph (1) or (2) who are enrolled full-time in a program of distance education provided by that school district or a charter school located within that school district on the last day of the first school month of the school district for the school year.

(4) The count of pupils who reside in the county and are enrolled:

(I) In a public school of the school district and are concurrently enrolled part-time in a program of distance education provided by another school district or a charter school on the last day of the first school month of the school district for the school year, expressed as a percentage of the total time services are provided to those pupils per school day in proportion to the total time services are provided during a school day to pupils who are counted pursuant to subparagraph (2).

(II) In a charter school and are concurrently enrolled part-time in a program of distance education provided by a school district or another charter school on the last day of the first school month of the school district for the school year, expressed as a percentage of the total time services are provided to those pupils per school day in proportion to the total time services are provided during a school day to pupils who are counted pursuant to subparagraph (2).

(5) The count of pupils not included under subparagraph (1), (2), (3) or (4), who are receiving special education pursuant to the provisions of [NRS 388.440](#) to [388.520](#), inclusive, on the last day of the first school month of the school district for the school year, excluding the count of pupils who have not attained the age of 5 years and who are receiving special education pursuant to subsection 1 of [NRS 388.475](#) on that day.

(6) Six-tenths the count of pupils who have not attained the age of 5 years and who are receiving special education pursuant to subsection 1 of [NRS 388.475](#) on the last day of the first

school month of the school district for the school year.

(7) The count of children detained in facilities for the detention of children, alternative programs and juvenile forestry camps receiving instruction pursuant to the provisions of NRS 388.550, 388.560 and 388.570 on the last day of the first school month of the school district for the school year.

(8) The count of pupils who are enrolled in classes for at least one semester pursuant to subsection 5 of NRS 386.560; subsection 5 of NRS 386.580 or subsection 3 of NRS 392.070, expressed as a percentage of the total time services are provided to those pupils per school day in proportion to the total time services are provided during a school day to pupils who are counted pursuant to subparagraph (2).

(b) Multiplying the number of special education program units maintained and operated by the amount per program established for that school year.

(c) Adding the amounts computed in paragraphs (a) and (b).

2. Except as otherwise provided in subsection 4, if the enrollment of pupils in a school district or a charter school that is located within the school district on the last day of the first school month of the school district for the school year is less than or equal to 95 percent of the enrollment of pupils in the same school district or charter school on the last day of the first school month of the school district for the immediately preceding school year, the largest number from among the immediately preceding 2 school years must be used for purposes of apportioning money from the State Distributive School Account to that school district or charter school pursuant to NRS 387.124.

3. Except as otherwise provided in subsection 4, if the enrollment of pupils in a school district or a charter school that is located within the school district on the last day of the first school month of the school district for the school year is more than 95 percent of the enrollment of pupils in the same school district or charter school on the last day of the first school month of the school district for the immediately preceding school year, the larger enrollment number from the current year or the immediately preceding school year must be used for purposes of apportioning money from the State Distributive School Account to that school district or charter school pursuant to NRS 387.124.

4. If the Department determines that a school district or charter school deliberately causes a decline in the enrollment of pupils in the school district or charter school to receive a higher apportionment pursuant to subsection 2 or 3, including, without limitation, by eliminating grades or moving into smaller facilities, the enrollment number from the current school year must be used for purposes of apportioning money from the State Distributive School Account to that school district or charter school pursuant to NRS 387.124.

5. Pupils who are excused from attendance at examinations or have completed their work in accordance with the rules of the board of trustees must be credited with attendance during that period.

6. Pupils who are incarcerated in a facility or institution operated by the Department of Corrections must not be counted for the purpose of computing basic support pursuant to this section. The average daily attendance for such pupils must be reported to the Department of Education.

7. Pupils who are enrolled in courses which are approved by the Department as meeting the requirements for an adult to earn a high school diploma must not be counted for the purpose of computing basic support pursuant to this section.

(Added to NRS by 1977, 704; A 1979, 1243, 1588; 1981, 299; 1985, 1868; 1987, 135, 1639, 1640; 1989, 1554, 1814, 1816; 1991, 1548; 1993, 2157; 1997, 1861; 1999, 3307; 2001, 1484, 3144; 2001 Special Session, 237; 2003, 289, 1137; 2005, 1668; 2007, 1201, 1566; 2011, 768; 2013, 1604)

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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 SHEILA FLORES
IN SUPPORT OF MOTION FOR
TEMPORARY RESTRAINING ORDER
AND PRELIMINARY INJUNCTION**

I, Sheila Flores, 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 daughter, C.F., enrolled at Nevada Connections Academy ("NCA") halfway
3 through the 2014-15 school year having left Centennial High School in the Clark County School
4 District where she accumulated only 4.5 credits over her freshmen and first half of her
5 sophomore year after experiencing difficulty in class and with attendance because of her need for
6 medical treatment and monitoring for her diabetes. After being told by her prior school that it
7 was impossible for her to graduate on time, she enrolled at NCA and in 1.5 school years has
8 accumulated 8.0 credits with NCA and is now back on track to graduate on time or even early.

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10 3. Nevada Connections Academy has provided my daughter a highly individualized
11 education and the chance to graduate on-time that the traditional public school was unable to
12 provide her. NCA is our school of choice and it is critical it remain an available option for my
13 daughter and all students in Nevada. Any interference in NCA's operations would interfere with
14 my daughter's education and the educational opportunity and choice to all Nevadans which I
15 believe would cause irreparable harm to my daughter and all of Nevada's youth – some of whom
16 find NCA to be their only option to complete their high school education because their prior
17 schools have failed them.

18
19 4. I respectfully request that this Court stop the State Public Charter School
20 Authority from going forward with closure proceedings against NCA or attempting to interfere
21 with NCA's ongoing operations. My daughter is among those students who was behind in school
22 and would have become part of a "drop-out" statistic. I understand that by enrolling her, NCA
23 risked having a lower graduation rate, but they took us with open arms and have helped her get
24 on-track, catching up so she can graduate on time. Penalizing schools for serving students like
25 my daughter who have not been well served by the traditional public schools is bad policy and
26 harmful to our youth and our State. I urge this Court and the State of Nevada's public agencies
27
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1 to put our youth before politics and look at the students' lives behind this single number of focus
2 - the four-year cohort graduation rate.

3 I declare under penalty of perjury under the laws of the State of Nevada that the
4 foregoing is true and corrected and was executed this 2 day of November, 2016, in
5 LAS VEGAS, Nevada.

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8 _____
9 SHEILA FLORES

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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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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 LAURA K. GRANIER IN SUPPORT OF MOTION FOR TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION

I, Laura K. Granier, do certify under penalty of perjury as follows:

1. I am a partner with the law firm of Davis Graham & Stubbs LLP, counsel for Plaintiffs. I have personal knowledge of the facts stated herein, and if called upon to testify as to the matters set forth herein, I would be competent to do so. I make this declaration in support of

1 the Plaintiffs' Motion for Temporary Restraining Order and Preliminary Injunction ("Motion").

2 2. Attached to the Motion as Exhibit 17 is a true and correct copy of a letter I sent to
3 the State Public Charter School Authority ("SPCSA") Board and Director Gavin on March 24,
4 2016 on behalf of Nevada Connections Academy ("NCA").

5 3. Attached to the Motion as Exhibit 23 is a true and correct copy of the Charter
6 School Performance Framework, downloaded from the SPCSA website.

7 4. Attached to the Motion as Exhibit 18 is a true and correct copy of excerpts of the
8 transcript of the March 25, 2016 SPCSA meeting, downloaded from the SPCSA website.

9 5. Attached to the Motion as Exhibits 16 and 21 are true and correct copies of
10 excerpts of the Minutes of the April 3, 2015 Senate Education Committee meeting, and Minutes
11 of the May 27, 2015 Assembly Education Committee meeting.

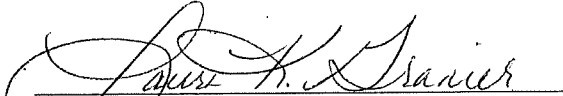
12 6. Attached to the Motion as Exhibit 27 are true and correct copies of emails
13 produced by the SPCSA.

14 7. Attached to the Motion as Exhibit 8 is a true and correct copy of an article on the
15 Las Vegas Review Journal's website, dated October 27, 2016.

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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 1st day of November, 2016, in Reno, Nevada.


LAURA K. GRANIER