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5 *Attorneys for the State of Nevada,  
State Public Charter School Authority*

6  
7 **IN THE FIRST JUDICIAL DISTRICT COURT**  
8 **OF THE STATE OF NEVADA IN AND FOR CARSON CITY**

9 NEVADA CONNECTIONS ACADEMY,

10 Plaintiff,

11 vs.

CASE NO. 16 OC 001941 B

DEPT. NO. I

12 STATE OF NEVADA, ex rel., STATE  
PUBLIC CHARTER SCHOOL  
13 AUTHORITY, a political subdivision of  
the STATE OF NEVADA, and PATRICK  
14 GAVIN, in his official capacity as  
Executive Director of the STATE  
15 PUBLIC CHARTER SCHOOL  
AUTHORITY,

16 Respondents.  
17

18 **MOTION TO DISMISS NEVADA CONNECTIONS ACADEMY'S COMPLAINT FOR**  
19 **DECLARATORY AND INJUNCTIVE RELIEF, PETITION FOR JUDICIAL**  
20 **REVIEW, AND PETITION FOR WRIT OF MANDATE / REVIEW**

21 Plaintiff Nevada Connections Academy's ("NCA") suit should be dismissed  
22 pursuant to NRCP 12(b)(5) for failure to state a claim for which relief can be granted.  
23 This suit asks the court to invalidate a July 29, 2016 State Public Charter School  
24 Authority ("Authority") action conditionally approving NCA's graduation rate  
25 improvement goals.<sup>1</sup> The approval was contingent upon the school entering into a charter

26 <sup>1</sup> Exhibit #1, State Public Charter School Authority July 29, 2016 Meeting Minutes  
27 regarding agenda item 13, where the board unanimously approved "these goals  
28 contingent upon the school entering into a charter contract which contains terms  
agreeable to both parties."

REC'D & FILED  
2016 NOV 21 PM 4:52  
SUSAN J. BROWN  
CLERK

1 contract of agreeable terms. No contract was agreed to, so the contingent approval failed.  
2 The July 29 board action is of no effect. NCA remains open and operating pursuant to its  
3 May 2013 Charter School Agreement. No judicial action is necessary to invalidate action,  
4 nor is a writ of mandate directing the Authority to allow NCA to continue operations  
5 subject to the Authority's continuing jurisdiction.<sup>2</sup>

6 I.  
7 BACKGROUND

8 NCA is a distance-education charter school that serves online, public school  
9 students throughout Nevada in grades K-12.<sup>3</sup> As a public school, NCA receives taxpayer  
10 dollars from the State's Distributive School Account to pay for the education of students  
11 choosing to attend.<sup>4</sup> NCA is allowed to operate pursuant to a written charter initially  
12 issued in 2007 for a term of six years pursuant to NRS 388A.270(8). In 2013, NCA sought  
13 a renewal of its 2007 charter from the Authority at its March 22, 2013 meeting.<sup>5</sup> Despite  
14 the Authority's governing Board expressing concerns about NCA's graduation rates of  
15 26.5% in 2011 and 36.08% in 2012<sup>6</sup>, the Authority approved the renewal of NCA with  
16 provisions that it create a plan for improvements in high school graduation rates.<sup>7</sup>  
17 Despite the directive from the Authority Board, NCA's graduation rate showed little  
18 improvement. In 2013 it fell to 33.91% and in 2014 it rose to 37.19% before falling again  
19 in 2016 to 35.63%.<sup>8</sup>

20 ///

21 \_\_\_\_\_  
22 <sup>2</sup> Defendants request this court take judicial notice of its file in 16 OC 2491 B,  
23 which Plaintiff filed after this complaint. That later case includes additional plaintiffs  
24 and causes of action not included in this complaint and thus not addressed in this Motion  
25 to Dismiss.

26 <sup>3</sup> <http://www.connectionsacademy.com/nevada-virtual-school/about>

27 <sup>4</sup> See Generally NRS 387.124.

28 <sup>5</sup> Exhibit #2, item #10, March 22, 2013 Authority Meeting Agenda.

<sup>6</sup> The Authority also indicated significant concerns with Connections inability to have its students meet adequate growth in Math.

<sup>7</sup> Exhibit #3, NCA graduation rates as publicly available on NevadaReportcard.com, and exhibit #4, March 22, 2013 Authority Meeting Minutes.

<sup>8</sup> *Id.*

1 During the 2015 legislative session, the Nevada legislature passed Senate Bill  
2 (SB) 509, which among other things, authorized sponsors of charter schools to revoke the  
3 written charter of a school if the graduation rate for the preceding year was below sixty  
4 percent (60%).<sup>9</sup>

5 Authority staff worked with a number of schools eligible for closure due to low  
6 graduation rates to develop plans for improvement with measureable benchmarks. At the  
7 July Meeting, more than three years after the Authority board directed the school to  
8 create a clear plan for graduation rate improvement, NCA presented a plan to the Board.  
9 The Board conditioned its approval of the plan upon the school entering in to a charter  
10 contract of agreeable terms.<sup>10</sup> No contract was agreed to, so the contingent approval of  
11 the July 29, 2016 Board meeting failed.

12 Contrary to the allegations of the complaint, the Board did not mandate NCA to  
13 convert its charter to a contract. It conditioned its approval of a graduation rate  
14 improvement plan on such a conversion. The only consequence of the failure to convert  
15 its written charter to a charter contract, was the failure of approval of its graduation rate  
16 improvement plan. As of the filing of this Motion to Dismiss, NCA remains open and  
17 operational pursuant to its 2013 written charter.<sup>11</sup>

18 NCA's fear is that despite having three years to improve the school's graduation  
19 rate, when the Board reviews its record and sees no measurable improvement, the school  
20 will be held accountable for its failure to graduate sixty-five percent (65%) of its 2015  
21 students. However, any accountability action that the Board may take has not occurred  
22 yet and is not ripe for review at this point.

23 \_\_\_\_\_  
24 <sup>9</sup> NRS 388A.330(1)(e).

25 <sup>10</sup> Exhibit #1, State Public Charter School Authority July 29, 2016 Meeting  
26 Minutes regarding agenda item 13, where the board unanimously approved "these goals  
27 contingent upon the school entering into a charter contract which contains terms  
28 agreeable to both parties."

<sup>11</sup> A Notice of Intent to revoke the written Charter of Connections Academy was  
issued on September 30, 2016 for the School's failure to graduate students. However, the  
hearing required pursuant to NRS 388A.330 will not be held until December and this  
complaint does not seek to have this court set aside Notice of Closure.

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II.

LEGAL ARGUMENT

A. Legal Standard

When deciding a Motion to Dismiss, all allegations pled must be accepted as true. *Bergmann v. Boyce*, 109 Nev. 670, 674-75, 856 P.2d 560 (1993). Dismissal is appropriate when the allegations in the complaint are insufficient to establish the elements of a claim for relief. *Stockmeier v. Nevada Dept. of Corrections Psychological Review Panel*, 124 Nev. 313, 316, 183 P.3d 133, 135 (2008). “[T]o survive dismissal, a complaint must contain some ‘set of facts, which, if true, would entitle [the plaintiff] to relief’ “ *Buzz Stew LLC v. City of N. Las Vegas*, 124 Nev. 224, 228 (2008).

B. Complaint Fails to State a Claim For Declaratory Relief

“Declaratory relief is available only if: (1) a justiciable controversy exists between persons with adverse interests, (2) the party seeking declaratory relief has a legally protectable interest in the controversy, and (3) the issue is ripe for judicial determination.”<sup>12</sup> NCA asks the court that the Authority’s July 29, 2016 conditional approval be declared void for failure to file the Open Meeting Law. However NCA fails to allege any harm. While harm need not already have been suffered, it must be probable for the issue to be ripe for judicial review.<sup>13</sup> NCA claims that the Authority’s vote requires it to convert its charter to a contract.<sup>14</sup> NCA fails to allege that this forced unilateral conversion is at all probable. The Authority Board minutes from 2013 through the present clearly reflect the Authority Board’s concern regarding NCA’s persistent failure to graduate students, but no accountability action has been taken by the Board at this point. If, at a future meeting, the Authority Board does impose some accountability on NCA, that decision would include facts, a record, and legal justification not available to

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<sup>12</sup> *Knittle v. Progressive Casualty Ins. Co.*, 112 Nev. 8, 10, 908 P.2d 724, 725 (1996).  
<sup>13</sup> *Herbst Gaming, Inv. V. Heller*, 122 Nev. 877 (2006).  
<sup>14</sup> The actual vote does no such thing. Instead it only conditioned approval of Connections’ proposed graduation rate improvement plan on transitioning to a charter contract. The only consequence of failure to convert to a contract is the improvement plan is not approved.

1 the court at this time. The request to void the July 29, 2016 action is not ripe because  
2 NCA cannot show any probable harm from that action. Thus, the Declaratory Relief  
3 Cause of Action should be dismissed as not ripe for review.

4 **C. Petition for Judicial Review Should Be Dismissed As the Action Was Not a**  
5 **Contested Case**

6 NCA provides no statutory support for its contention that the July 29, 2016 action  
7 is subject to judicial review. That failure alone should subject the petition to dismissal  
8 because “[c]ourts have no inherent appellate jurisdiction over official acts of  
9 administrative agencies except where the legislature has made some statutory provision  
10 for judicial review.”<sup>15</sup> “Pursuant to the [APA] ..., not every administrative decision is  
11 reviewable.”<sup>16</sup> Instead, only those decisions falling within the APA's terms and  
12 challenged according to the APA's procedures invoke the district court's jurisdiction.<sup>17</sup>  
13 The Authority will assume, for the sake of this motion, that NCA is proceeding pursuant  
14 to NRS 233B.130. NRS 233B.130 applies only to contested cases, which is defined by  
15 NRS 233B.032 as “a proceeding . . . in which the legal rights, duties or privileges of a  
16 party are required by law to be determined by an agency after an opportunity  
17 for hearing. . .”

18 The Authority agenda item bears no resemblance to a contested case as the legal  
19 rights, duties, or privileges of a party were not determined, and there was no opportunity  
20 for a hearing. This was a simple administrative decision by the Authority Board  
21 conditionally accepting a graduation rate improvement plan. “In a contested case, each  
22 party is given a chance to prepare evidence and subpoena witnesses, if necessary.”<sup>18</sup>

23 Here, NCA made a simple presentation of its proposed plan, no evidence was prepared or  
24 ///

25  
26 <sup>15</sup> Washoe County v. Otto 128 Nev. Adv. Op. 40 (2012).

27 <sup>16</sup> Private Inv. Licensing Bd. v. Atherley, 98 Nev. 514, 515, 654 P.2d 1019, 1019  
(1982).

28 <sup>17</sup> *Id.*

<sup>18</sup> State, Purchasing Div. v. George's Equipment 105 Nev. 798, 804 (1989).

1 admitted and no witnesses subpoenaed. The Authority prepared no written findings and  
2 simply included the motion in the minutes they approved at the next board meeting.

3 Most significantly, the complained of action had no effect on the rights, duties, or  
4 privileges of a party. Prior to the hearing, NCA was a charter school authorized by the  
5 Authority operating pursuant to a written charter. After the hearing it remained a  
6 charter school authorized by the Authority to operate pursuant to a written charter.  
7 There were no changes to its board; governing documents; status; admissions criteria;  
8 ability to educate students; or legal status. The only effect of the July action item was to  
9 accept the graduation-rate improvement-plan if a contract was agreed to between NCA  
10 and the Authority. No contract has been agreed to and the July 29, 2016 item had  
11 no effect. Therefore, a court decision to set aside the action would not benefit NCA in  
12 any way.

13 **D. This Court Should Not Hear the Petition for a Writ Is Procedurally**  
14 **Deficient**

15 Petitions for writs must be accompanied by affidavit of the persons beneficially  
16 interested.<sup>19</sup> While a verified petition may not need to be accompanied by an affidavit,  
17 NCA's petition is neither verified nor accompanied by an affidavit.<sup>20</sup> This procedural  
18 deficiency requires dismissal of the request for extraordinary remedy.

19 **E. The Requested Writ Is Improper As It Does Not Allege the Authority**  
20 **Failed To Perform A Specific Duty**

21 A writ is an extraordinary remedy to be reserved for extraordinary cases in which  
22 an appeal is an inadequate remedy.<sup>21</sup> Mandamus is an extraordinary remedy, and the  
23 decision as to whether a petition will be entertained lies within the sound discretion of  
24 the court.<sup>22</sup>

25 ///

26 \_\_\_\_\_  
27 <sup>19</sup> NRS 34.170; *see also* Nevada Rule of Appellate Procedure 21(a)(5).

28 <sup>20</sup> State of Nevada v. Wright 10 Nev. 167, 172 (1875).

<sup>21</sup> In re McDonald 489 U.S. 180 (1989).

<sup>22</sup> *See* Poulous v. District Court, 98 Nev. 453, 455, 652 P.2d 1177, 1178 (1982).

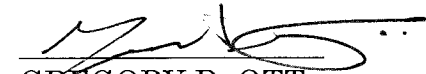
1 NCA requests a writ "directing the Authority to proceed in a lawful manner and  
2 allow NCA to continue operations in accordance with Nevada law under its existing  
3 charter and subject to the Authority's continuing jurisdiction."<sup>23</sup> However, a request to  
4 proceed in a lawful manner and allow continued operations is presumptuous in  
5 anticipation of future actions by the Authority. Nevada law is explicit that "a writ of  
6 mandamus will not be granted in anticipation of a supposed omission of duty."<sup>24</sup> An  
7 actual default or omission of duty is an essential prerequisite to the issuance of a writ of  
8 mandamus and "the writ will not issue until that time."<sup>25</sup> The writ sought by NCA does  
9 not address an existing omission or default and a presumption of future omissions,  
10 however strong, is insufficient to support a writ.<sup>26</sup>

11 III.  
12 CONCLUSION

13 At the time of filing this complaint, NCA remains open and operational pursuant to  
14 the same written charter it has operated under since 2013. Despite NCAs perpetual  
15 failure to graduate it students, no action has been taken by the Authority Board to affect  
16 the legal rights or obligations of NCA at this time. Therefore, the Complaint, Petition for  
17 Judicial Review and Writ of Mandate should be dismissed.

18 DATED this 21st day of November, 2016.

20 ADAM PAUL LAXALT  
21 Attorney General

22 By:   
23 GREGORY D. OTT  
24 Deputy Attorney General

26  
27 <sup>23</sup> Connection Complaint, prayer for relief, paragraph 3.  
28 <sup>24</sup> Brewery Arts Ctr. v. State Bd. Examiners 108 Nev. 1050, 1053 (1992).  
<sup>25</sup> State of Nevada v. Gracey 11 Nev. 223, 234 (1876).  
<sup>26</sup> *Id.*

1 **CERTIFICATE OF SERVICE**

2 I certify that I am an employee of the State of Nevada, Office of the Attorney  
3 General, and that on this 21st day of November, 2016, I electronically filed the foregoing  
4 MOTION TO DISMISS NEVADA CONNECTIONS ACADEMY'S COMPLAINT FOR  
5 DECLARATORY AND INJUNCTIVE RELIEF, PETITION FOR JUDICIAL REVIEW,  
6 AND PETITION FOR WRIT OF MANDATE/ REVIEW, with the Clerk of the Court and  
7 deposited for service by way of the United States Postal Service:

8 Nevada Connections Academy  
9 555 Double Eagle Ct., #2000,  
10 Reno, NV 89521

11 And by electronic mail to:

12 Laura K. Granier  
13 Davis Graham & Stubbs, LLP  
14 50 W Liberty St., Ste. 950  
15 Reno, NV 89501  
16 Laura.granier@dgsllaw.com

17 Patrick Gavin, Executive Director  
18 State Public Charter School Authority  
19 1749 North Stewart St., Ste. 40  
20 Carson City, NV 89706-2543  
21 pgavin@spsca.nv.gov

22 /s/ Marissa Houk  
23 Marissa Houk, Employee of the State of  
24 Nevada, Office of the Attorney General  
25  
26  
27  
28

Attorney General's Office  
100 N. Carson Street  
Carson City, Nevada 89701-4717



**AFFIRMATION PURSUANT TO NRS 293B.030**

The undersigned does hereby affirm that the preceding document does not contain the personal information of any person.

DATED this 21st day of November, 2016.



---

GREGORY D. OTT  
Deputy Attorney General  
*Attorneys for the State of Nevada,  
State Public Charter School Authority*

Attorney General's Office  
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EXHIBIT INDEX

Exhibit	Description	Number of Pages
1	State Public Charter School Authority, Minutes for Meeting on July 29, 2016	5
2	State Public Charter School Authority, Agenda for Meeting on March 22, 2013	3
3	Cohort Graduation Rates	1
4	State Public Charter School Authority, Minutes for Meeting on March 22, 2013	19
5	Declaration of Gregory D. Ott	2

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**EXHIBIT 1**

Attorney General's Office  
100 N. Carson Street  
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**EXHIBIT 1**

**NEVADA STATE PUBLIC CHARTER SCHOOL AUTHORITY**

**July 29, 2016**

Legislative Building  
Room 2135  
Carson City, Nevada

And

Grant Sawyer Building  
Room 4400  
Las Vegas, Nevada

**MINUTES OF THE MEETING**

**BOARD MEMBERS PRESENT:**

**In Las Vegas:**

Adam Johnson  
Melissa Mackedon  
Nora Luna  
Jacob Snow  
Stavan Corbett

**In Carson City:**

Kathleen Conaboy

**Teleconference:**

Jason Guinasso

**BOARD MEMBERS ABSENT**

None

**AUTHORITY STAFF PRESENT:**

**In Las Vegas:**

Robert Whitney, Deputy Attorney General  
Patrick Gavin, Director, State Public Charter School Authority  
Brian Scroggins, Deputy Director, State Public Charter School Authority  
Nya Berry, Education Program Professional, State Public Charter School Authority  
Joan Jurgensen, Education Program Professional, State Public Charter School Authority

**In Carson City:**

Danny Peltier, Management Analyst I, State Public Charter School Authority  
Tanya Osborne, Administrative Assistant, State Public Charter School Authority

**LEGAL STAFF PRESENT:**

**In Las Vegas:**

Greg Ott, Deputy Attorney General  
Robert Whitney, 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**

**Agenda Item 1 – Public Comment**

Chris Orme an attorney at Hutchison and Steffen spoke about representing a company called Tower Distribution Center, which is the landlord for Quest Academy. Noah Stevens talked about Coral Academy of Science and will be the principal the new school Centennial Hills Campus. Tamara Hammer spoke as a parent at Coral Academy of Science and would love to see an expansion. Zachary Hammer is a student at Coral Academy and enjoys going to school there. Ben Salkowe spoke as the principal of Equipo Academy and wanted to share some information about the school. Yolanda Flores, principal at Coral Academy, Sandy Ridge Campus to talk about being thankful for consideration on the expansion.

**Member Mackedon moved for a flexible agenda. Member Luna seconded the motion. The motion carried unanimously.**

**Agenda Item 11 – Consideration and possible action of the Founders Academy charter contract amendment request to add one or more Educational Management Organizations.**

Director Gavin spoke about what defines an educational management organization as for-profit business, organization or other entity that provides services related to the operation and management of charter schools and achievement charter schools.

**Member Guinasso moved to table this agenda item to the next scheduled meeting. Member Conaboy seconded the motion. The motion carried unanimously.**

**Agenda Item 4 – Update and discussion of the NACSA agency recommendations**

Elisa Westapher the Director of Authorizer Development and Larry Stanton with NACSA spoke about the visit with staff and talked about the strategic plan for SPCSA.

**Member Mackedon moved to approve NACSA's recommendation regarding staffing changes including those specifically required by statute and direct staff to appeal to the governor's office for consideration of these investments in the agency budget question. Member Conaboy seconded the motion. The motion carried unanimously.**

**Agenda Item 16 – Authorization for the Agency to budget and charge up to 2 percent to support NACSA business findings and ongoing discussions regarding Agency budget request.**

Director Gavin talked about the agency budget.

**Member Luna moved to approve and go ahead and authorize the agency to budget and charge up to 2 percent to support NACSA's business findings. Member Snow seconded the motion. The motion carried unanimously.**

**Agenda Items 5 – Consideration and possible action on the America Leadership Academy charter application**

Eric Makli Scholer, Megan Curtis and Melissa Hartman all board members spoke for American Leadership Academy and opening the school.

**Member Mackedon moved to approve with conditions to be addressed prior to the execution of the charter contract. Member Snow seconded the motion. The motion carried unanimously.**

**Agenda Item 6 - Consideration and possible action on the Nevada Academy of Sciences and Arts charter application.**

Director Gavin has asked for denial from the board.

**Chair Johnson made a motion that the Authority follow staff recommendation for denial. Member Luna seconded the motion. The motion carried unanimously.**

**Agenda Item 7 – Consideration and possible action of the Nevada State High School Meadowood charter application.**

Director Gavin spoke in approving with conditions to be addressed with staff.

**Member Mackedon moved to approve the application under the condition that items discussed are worked out with staff prior to executing the contract. Member Snow seconded the motion. The motion carried unanimously.**

**Agenda Item 8 – Consideration and possible action on the Nevada State High School Sunrise charter application.**

Director Gavin spoke in approving with conditions to be addressed with staff.

**Member Mackedon moved to approve the campus with conditions being met and approved by staff before executing the contract. Member Conaboy seconded the motion. The motion carried unanimously.**

**Agenda Item 9 – Consideration and possible action on Coral Academy of Science Expansion Amendment application.**

Director Gavin would like to recommend approval of amendment.

**Member Mackedon moved to approve staff's recommendation, approve with conditions. Member Snow seconded the motion. The motion carried unanimously.**

**Agenda Item 10 – Consideration and possible action on the Somerset Academy amendment request.**

Director Gavin would like to approve the amendment.

**Member Snow moved to follow staff's recommendation for approval subject to any conditions. Member Conaboy seconded the motion. The motion carried unanimously.**

**Agenda Item 12 – Quest Academy and Silver State Charter School receiver update.**

Josh Kern spoke about Quest Academy and Silver State Charter School receiver and a brief update on both schools.

**Agenda Item 13 – Update and possible action regarding staff discussions with Nevada Connections Academy regarding school's plan for improvement. The Board will receive an update on and may discuss the status of discussions between SPCSA staff and School officials and attorneys regarding the school's efforts to develop a plan of improvement. The Board may register approval or disapproval of the plan or direct staff to take further action or require adjustments to the plan.**

Director Gavin spoke about a plan that was presented by the school, updated metrics and measurements for each year of the next several years.

**Member Mackedon moved to recommend the approval of these goals contingent upon the school entering into a charter contract which contains terms agreeable to both parties. Member Corbett seconded the motion. The motion carried unanimously.**

**Agenda Item 14 - Update and possible action regarding staff discussions with Beacon Academy regarding school's plan for improvement. The Board will receive an update on and may discuss the status of discussions between SPCSA staff and School officials and attorneys regarding the school's efforts to develop a plan of improvement. The Board may register approval or disapproval of the plan or require adjustments to the plan.**

Director Gavin spoke about the staff report related to Beacon's graduation rate improvement plan.

**Member Luna moved that we approve staff's recommendation as stated. Member Corbett seconded the motion. The motion carried unanimously.**

**Agenda Item 3 - Approval of Consent Approval**

*Information concerning the following consent agenda items has been provided to Board members for study prior to the meeting. Unless a Board member has a question concerning a particular item and asks that it be withdrawn from the consent list, items are approved through one action.*

(Adam Johnson, Chair, SPCSA) **(Information/Discussion/Action)**

- Possible Approval of the ACT Aspire Contract
- Possible Approval of the Charter Application Timeline

Director Gavin spoke regarding the consent approval.

**Member Mackedon moved to approve the consent agenda items. Member Conaboy seconded the motion. The motion carried unanimously.**

**Agenda Item 2 – Approval of the June 24, 2016 SPCSA Action Minutes**

**Member Mackedon moved to approve the minutes from the June 24, 2016 SPCSA Action minutes. Member Corbett seconded the motion. The motion carried unanimously.**

**Agenda Item 15 - Update, discussion and possible action regarding the State Public Charter School Authority's Strategic Plan**

Director Gavin spoke about the strategic plan and the goals for 2020.

**Member Mackedon moved to approve goal number one. Member Luna seconded the motion. The motion carried unanimously.**

**Agenda Item 17 – Public Comment #2**

None

Chair Johnson adjourned the meeting at: 2:45.



**EXHIBIT 2**

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Attorney General's Office  
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**EXHIBIT 2**

## **PUBLIC NOTICE**

Note: This public notice has been posted at the office of the State Public Charter School Authority and the offices of the Department of Education in Carson City and Las Vegas. Notice of this meeting was posted at the 14 State Sponsored Charter Schools. Notice of this meeting was posted at the Nevada State Library and the Carson City Library. Notice of this meeting was posted on the Internet through the State Public Charter School Authority website at <http://charterschools.nv.gov/> and the Nevada Department of Education website at [www.nde.doe.nv.gov](http://www.nde.doe.nv.gov).

### **NEVADA STATE PUBLIC CHARTER SCHOOL AUTHORITY**

#### **REGULAR MEETING *VIDEO CONFERENCED***

**March 22, 2013  
9:00 a.m.**

**Locations:**      Department of Education      *and*      Department of Education  
700 East Fifth Street      9890 South Maryland Pkwy  
Board Conference Room      Second Floor Conference Room  
Carson City, Nevada      Las Vegas, Nevada

Note: Members of the Authority may participate in the meeting via telephone conference call. Members of the Authority may call into the meeting site to participate. Members of the public are invited to be present.

Reasonable efforts will be made for members of the public who are disabled and require special accommodations or assistance at the meeting. Please call the Authority Assistant at (775) 687-9174 at least five business days in advance so that arrangements can be made.

**REGULAR MEETING**  
**VIDEO CONFERENCED**

**Friday, March 22, 2013**  
**9:00 a.m.**

**-AGENDA-**

*The public is hereby noticed that the Nevada State Public Charter School Authority reserves the right to take agenda items out of posted order, with the exception of public hearings, and items may be pulled or removed from the agenda at any time and items may be combined for consideration. A time for public comment is provided at the beginning and at the conclusion of the meeting. Time limit: A time limit (three minutes) will be imposed by the Authority Chair on public testimony in order to afford all members of the public who wish to comment an opportunity to do so within the timeframe available to the Authority. The Authority Chair reserves the right to call on individuals from the audience or to allow for testimony at any time. Individuals providing testimony should fill out a Visitor Card, which will be numbered in order received by the Authority Assistant.*

Call to order; Roll Call; Pledge of Allegiance (Kathleen Conaboy, SPCSA Chair)

1. Public Comment. (Public comment pursuant to this item should be limited to items listed on the agenda.)
2. Approval of January 8, 2013 Meeting Minutes (Kathleen Conaboy, Chair)  
*(Information/Action)*
3. Authority Update (Kathleen Conaboy, Chair) *(Information/Discussion)*
4. Director's Report (Steve Canavero, PhD, Director, SPCSA) *(Information/Discussion)*
5. Legislative Update (Steve Canavero, PhD, Director, SPCSA; Kathleen Conaboy, Legislative Liaison, Chair SPCSA; Robert McCord, Legislative Liaison, SPCSA Member; Nora Luna, Legislative Liaison, SPCSA Member )  
*(Information/Discussion/Action)*
  - SB59
  - AB205
  - Facilities
  - Clean-up
6. Introduction of new SPCSA Business Process Analyst II Traci House, Management Analyst I Katie Higday, and Update of Student Information Systems (Steve Canavero, PhD, Director, SPCSA; Traci House, Business Process Analyst II, SPCSA; Katie Higday, Management Analyst I, SPCSA) *(Information/Discussion)*
7. Approval of Willie H. Brooks Soar Academy request for an extension of Subsection 7 per NAC 386.240(1)(Tom McCormack, Education Program Professional, SPCSA)  
*(Information/Discussion/Action)*
8. Overview of the Authority's monitoring for the 2013-2014 School year (Steve Canavero, PhD, Director, SPCSA) *(Information/Discussion)*

9. Presentation concerning the Authority's proposed Performance Framework (Steve Canavero, PhD, Director, SPCSA; Tom McCormack, Education Program Professional, SPCSA; Brian Flanner, Administrative Services Officer, SPCSA; Katherine Rohrer, Education Program Professional, SPCSA) *(Information/Discussion/Action)*
  - Academic
  - Financial
  - Organizational
10. Nevada Connections Academy Charter Renewal (Steve Canavero, PhD, Director, SPCSA; Representatives of Nevada Connections Academy) *(Information/Discussion/Action)*
11. Quest Academy Update (Spencer Gunnerson, Board President, Quest Academy) *(Information/Discussion)*
12. Presentation and possible adoption of the Authority Strategic Plan (Steve Canavero, PhD, Director, SPCSA) *(Information/Discussion/Action)*
13. Charter Schools Association of Nevada Update (Dr. Jim LaBuda, Charter School Association of Nevada) *(Information/Discussion)*
14. Presentation by Silver Sands Montessori Charter School (Representatives of Silver Sands Montessori) *(Information/Discussion)*
15. Member Comment *(Information/Discussion)*
16. Public Comment. (Public comment pursuant to this item may be on any topic, principally those related to the Nevada State Public Charter School Authority.)
17. Next meeting date: May 31, 2013 with recommendation to move meeting to June *(Information/Action)*
18. Adjournment *(Action)*

**EXHIBIT 3**

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**Attorney General's Office**  
100 N. Carson Street  
Carson City, Nevada 89701-4717

**EXHIBIT 3**

### Cohort Graduation Rates (Reported For Prior School Year)

Name	Accountability Year	Class Of	Total Graduation Rate
Nevada Connections Academy	2011-2012	2011	26.5
Nevada Connections Academy	2012-2013	2012	36.08
Nevada Connections Academy	2013-2014	2013	33.91
Nevada Connections Academy	2014-2015	2014	37.19
Nevada Connections Academy	2015-2016	2015	35.63

**EXHIBIT 4**

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Attorney General's Office  
100 N. Carson Street  
Carson City, Nevada 89701-4717

**EXHIBIT 4**

**NEVADA STATE PUBLIC CHARTER SCHOOL AUTHORITY**

**March 22, 2013**

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

And

Department of Education  
9890 South Maryland Pkwy  
Second Floor Conference Room  
Las Vegas, Nevada

**MINUTES OF THE REGULAR MEETING**  
**(Video Conferenced)**

**AUTHORITY MEMBERS PRESENT:**

In Las Vegas:

**Kathleen Conaboy**  
**Elissa Wahl**  
**Marc Abelman**  
**Nora Luna**  
**Melissa Mackedon**  
**Michael Van**  
**Robert McCord**

In Carson City:

**None**

**AUTHORITY MEMBERS ABSENT:**

**None**

**AUTHORITY STAFF PRESENT:**

In Las Vegas:

Steve Canavero, Director, State Public Charter School Authority  
Katherine Rohrer, Education Program Professional, State Public Charter School Authority  
Traci House, Business Process Analyst II, State Public Charter School Authority

In Carson City:

Tom McCormack, Education Program Professional, State Public Charter School Authority  
Angela Blair, Education Program Professional, State Public Charter School Authority  
Allyson Kellogg, Management Analyst, State Public Charter School Authority  
Katie Higday, Management Analyst, State Public Charter School Authority  
Danny Peltier, Administrative Assistant, State Public Charter School Authority



**LEGAL STAFF PRESENT:**

**In Las Vegas:**

Shane Chesney, Senior Deputy Attorney General

**In Carson City:**

None

**AUDIENCE IN ATTENDANCE:**

**In Las Vegas:**

Jim LaBuda  
Caroline McIntosh  
Amanda Frazier  
Jennifer Dukek  
Jamie Castle  
Ryan Reeves  
Marlo Tsuchiyama  
Patty Weakly  
Danette Olmos-Green  
Jason Sando  
Claudia Burns  
Wendi Hawk  
Richard Moreno  
Debra Roberson  
Shelley Kloos  
Melissa Hester  
Margo Tolman  
Katie Pellegrino  
Ercan Aydogdu  
Nick Sarisahn  
A,my Zeiders  
Elizabeth Dixon  
Tami Bass  
Kimberly Rushton  
Shayne Sheehy  
Orlando Dos Santos  
Danny Diamond  
April Taggart  
Tonya Strozier  
John Hawk

**In Carson City:**

Donna Wix  
Eugene Paslov

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

Chair Conaboy called the meeting to order at 9:01a.m. with attendance as reflected above.

Chair Conaboy called for a motion for a flexible agenda.

**Member McCord moved for approval of a flexible agenda. Member Abelman seconded. The motion carried unanimously.**

**Agenda Item 2 – Approval of January 8, 2013 SPCSA Board meeting minutes**

Member McCord asked that the minutes be updated to include him on the attendance sheet. Chair Conaboy noted the vote for the approval of American Preparatory Academy Subsection 7 charter was not a unanimous vote.

**Member McCord moved to approve the January 8, 2013 minutes. Member Mackedon seconded. The motion carried unanimously.**

**Agenda Item 1 - Public Comment**

Wendi Hawk, Chief Academic Officer Nevada State High School addressed Agenda Item 5 regarding section 3 of AB205, which includes the performance framework and also made a formal request for information from the Director Authority. She listed her concerns with the bill and submitted that list to be included in the record. The list of concerns can be found as an attachment to these minutes.

John Hawk, President of CSAN and Director of Nevada State High School presented and passed out a survey that was conducted with the members of the Charter School Association of Nevada and other interested parties. 18 out of the 31 charter schools in Nevada responded to the survey which can be found as an attachment to these minutes.

**Agenda Item 14 – Presentation by Silver Sands Montessori Charter School**

Director Canavero began by giving a short background of Silver Sands Montessori Charter School. He said that Silver Sands is a great school. He also said that Silver Sands is a great model for the State of Nevada and it shows the success that charter schools can have in Nevada.

Marlo Tsuchiyama, Director of Silver Sands Montessori, Jared Sando, Student Council Treasurer, and Sebastian Balmer, Student Council Vice President spoke on behalf of Silver Sands Montessori. Ms. Tsuchiyama thanked the Authority for inviting there school. Ms. Tsuchiyama also introduced Patti Weakly, Silver Sands Principal and Danette Olmos-Green, Director of Operations at Silver Sands. Ms. Tsuchiyama detailed the growth that Silver Sands had undergone since opening in August 2009. They went from a K – 5 in their first year of operation to K – 8 today. She also detailed the hard work and dedication of all the staff and parents over the 4 years that made Silver Sands Montessori a success. She said the school was awarded a start-up grant worth a little over \$200,000 to help pay for classroom materials, professional development, and other necessities of the school. She then detailed the style of the Montessori learning they employ at Silver Sands. Peace is a large part of the daily curriculum and the school provides different outlets for the students to calm down during stressful moments and refocus on the task at hand. Jared Sando and Sebastian Balmer then presented some of their experiences at Silver Sands and the uniqueness of the school.

**Agenda Item 3 – Authority Update**

Chair Conaboy noted the two documents that were included in the Support Doc prior to the meeting. The first document, iNVEST report, which is the Nevada School Superintendents' legislative agenda, and the 2013 Education Programs, was authored by the Nevada Department of Education and gives background, statistics, and other information regarding Nevada's schools. Chair Conaboy also said that she and Director Canavero had been spending a lot of time at the Legislature, and they have been having very productive meetings with legislators regarding proposed charter school statute revisions and additions.

**Agenda Item 4 – Director’s Report**

Director Canavero began by explaining some of the changes to the 2013 charter school application. It is now called the “2013 Call for Quality Charter Schools” and it prescribed the contents of the application for new charters to form in the state. He also said that the SPCSA had been working in conjunction with the Charter School Association of Nevada (CSAN) to provide technical assistance to build the capacity of potential Nevada charter school applicants.

Director Canavero also said that he had just finished writing a grant to the National Governors Association, which explores some of the legal issues around the construct of the Authority. He said he will bring more information to the Authority regarding the grant as it becomes available.

Director Canavero finished his report by pointing out that he was very fortunate to have been able to visit Coral Academy of Science Las Vegas. He stressed that he believes he, along with other SPCSA staff, should make more of an effort to visit the charter schools in person. He said that is a wonderful reminder of the fantastic work that the Authority is doing and it is inspiring to see the schools succeed.

**Agenda Item 5 – Legislative Update**

Director Canavero along with legislative liaisons Conaboy, Luna and McCord began the discussion with the news that the Charter School Revolving Loan Account is proposed to be funded for the first time in its existence. The Governor is calling for \$750,000 to be set aside for charter schools that are in need of low interest loans to help with operations.

Director Canavero also explained SB59, which is Clark County School District’s bill that would allow charter schools to use district facilities during normal business hours. Director Canavero said that the SPCSA had proposed an amendment that would define the policies that the Board of Trustees would implement during this process.

**Agenda Item 6 - Introduction of new SPCSA Business Process Analyst II Traci House, Management Analyst I Katie Higday, and Update of Student Information Systems**

Director Canavero introduced Traci House and Katie Higday as new employees of the SPCSA. Traci House was hired as the Business Process Analyst II and will be charged with running the SPCSA’s Powerschool service for the SPCSA-sponsored schools. Ms. House also discussed some of the cost savings associated with having the SPCSA run all of the school’s Powerschool systems.

Katie Higday was hired as the Management Analyst I and will be charged with overseeing the SPCSA operations calendar, AOIS monitoring, Annual Performance Audits, and SPCSA Internal controls.

**Agenda Item 7 – Approval of Willie H. Brooks Soar Academy request for an extension of Subsection 7 per NAC 386.240(1)**

Tom McCormack, SPCSA Education Program Professional, gave the Authority the history of the Willie H. Brooks Soar Academy’s (Soar) approval of the Subsection 7 charter and the reason they were in need of an extension. Soar had difficulties in acquiring a facility for the school, but had begun to make headway with acquisition of a facility. The Subsection 7 charter they currently held was going to expire before the deal on the facility would be finalized. Mr. McCormack said that it was the recommendation of the SPCSA for approval of Soar’s Subsection 7 extension.

Tami Bass, Committee to Form Liaison for Soar, presented to the Authority as well. She said that Soar would be the first single gender school in Nevada and would be targeting primarily at-risk youth in Clark County.

**Member McCord moved for the approval of Willie H. Brooks Soar Academy request for an extension of Subsection 7 per NAC 386.240(1). Member Abelman seconded. The motion carried unanimously.**

**Agenda Item 8 - Overview of the Authority's monitoring for the 2013-2014 School year**

Director Canavero explained the SPCSA's plan and schedule for monitoring schools during the 2013-2014 school year. Director Canavero said that charter schools that were planning to open would be monitored through the Pre-opening requirements. Charter schools in Year 1 of operation would have an Annual Performance Audit conducted which includes a site visit and full desk audit. A charter school that is in Year 2 of operation would be subject to an Annual Performance audit which includes site visits as needed and a full desk audit. Charter School in Year 3 of operation would still be subject to an Annual Performance audit with site visits as needed as well as a desk audit, but the SPCSA would present the findings to the charter school governing board at one of their meetings in order for the board to see how the school was doing at its halfway point in the charter. Year 4 and 5 charter schools would have the scope of their Annual Performance Audit dependent upon the school performance from the subsequent years. Charter schools who are in their sixth year of operation would also be scheduled for their charter renewal. Their monitoring schedule would be based on a complete renewal application, site visit, and renewal recommendation that would be reviewed and approved or denied by the Authority.

Member McCord commented that he was impressed with the schedule and pleased to see the research about charter schools that fail early on in their existence and how those types of issues would be addressed through the SPCSA's monitoring plan.

**Agenda Item 11 – Quest Academy Update**

Spencer Gunnerson, Quest Academy Board President, led the discussion on behalf of Quest Academy. Director Canavero informed the Authority that the Corrective Action Plan that had been issued and agreed upon by the SPCSA and Quest Academy's board after the last Authority meeting had been met and he had renewed faith in the strength and direction of the school. Mr. Gunnerson credited the hard work the entire Quest Board had put in over the course of a few months that was responsible for turning the school around. He also introduced Deb Roberson as the interim principal of Quest Academy. Ms. Roberson explained the current situation with the facility issues and where the school was at with regard to acquisition of property, academic compliance, and operations compliance going forward.

Chair Conaboy asked Mr. Gunnerson if the security concerns that the YMCA had been addressed. Mr. Gunnerson said while YMCA is a less than ideal facility for Quest Academy the board had indeed addressed the security concerns and were working to make the improvements. Chair Conaboy also asked if the subcommittees that have been set up required any changes to the existing Quest Academy bylaws. Mr. Gunnerson said that the bylaws allowed for ad hoc committees but there had been interest in making the committees permanent. If this does happen then the bylaws will have to be changed to reflect the new standing committees within Quest Academy's governing board. Chair Conaboy asked a final question regarding the communication to the parents of Quest and the outlets they have to express their concerns. Mr. Gunnerson said that it is very important to the Quest Academy Board to allow for open lines of communications with both parents and teachers. He said that meetings have been well attended and public comment has been used by parents to voice their concerns. There is also a newsletter that is being sent out by the board in order to keep parents more apprised of the current events of the school. Ms. Roberson also added that they hold weekly meetings between the administration and the teachers to allow them to voice any concerns or suggestions they may have in order to improve the learning environment at Quest Academy.

Deputy Attorney General Chesney asked Mr. Gunnerson to clarify the report that was sent to the Attorney General's office regarding the matters. Mr. Gunnerson asked that Kimberly Maxom-Rushton answer Deputy Attorney General Chesney's inquiry about the process that had been followed in reporting on the Attorney General's Office. She said she met with members of the AG's office in Las Vegas and submitted a formal request for investigation. She said an investigator had been assigned to the matter and the matter has been turned over to the Attorney General's Office. Ms. Rushton also said that the alleged inappropriate relations

between the staff member and the students that was discussed at prior meetings had been turned over to both the AG office and Las Vegas Metropolitan Police Department.

Member Wahl asked about the status of the basketball team. Mr. Gunnerson said that because of the multitude of things that had to be taken care of immediately the board has not had the opportunity to fully look into the status of the team. He said that as the more immediate concerns regarding the school has been addressed then the Quest Academy Board look into the matter more fully.

Member McCord asked that a summary of Quest Academy's reporting that has been done be entered into the record for historical accuracy of the entire process and resolution. Mr. Gunnerson agreed to submit the information to the Authority. Member McCord also requested updates from the Quest Academy Board at future meetings to see how the progress has gone. Dr. Canavero said that the letter that was sent to the Quest Board outlining the Corrective Action Plan completion already requested updates from the Quest Board on April 1, July 1 and October 1 2013.

### **Agenda Item 10 - Nevada Connections Academy Charter Renewal**

Director Canavero began by explaining the Nevada Connections Renewal Report:

#### **Elementary/Middle School Observations**

Review of these data result in the following concerns: Math proficiency, Math Adequate Growth Percentiles, Math Median Growth Percentiles (middle school), and Math GAP

- Except for FY 2009, the percentage of students above the Annual Measurable Objective in Math is consistently negative. This means that students at the elementary/middle school level did not meet the Annual Measurable Objective set by NDE in Math for FY 2010, 2011, and 2012.
- Except for FY 2011, the percentage of students above the Annual Measurable Objective in ELA is positive. This means that students at the elementary/middle school level are meeting the Annual Measurable Objective set by NDE in ELA for FY 2009, 2010, and 2012. However, the percentage of students above the cut is decreasing.
- The percentage of students meeting adequate growth percentile in Math is above the 5th percentile but below the 25th percentile. At the elementary level, this means that out of 163 students tested only 66 students made adequate growth to proficiency. At the middle school level, this means that out of 195 students tested only 29 students made adequate growth to proficiency.
- The median growth percentile in Math for the middle school is below the 5th percentile. This means that these students are ranking at the lowest percentile when compared to like student scores in the rest of the state.
- Sub-populations for the middle school in Math are also performing at the lowest percentile rank. Out of 87 students identified as FRL, IEP, or ELL, only 9 students made adequate growth to proficiency. On the positive side, these same students performed above the 75th percentile in reading.

#### **High School Observations**

Review of these data result in the following concerns: Cohort Graduation Rate, math proficiency.

- Students at the high school level are performing at or above the 75th percentile in both reading and math when compared to like student scores in the state.

- Graduation rate is low. The 2011 grade cohort rate was 26.5%. The 2012 grad cohort rate was 36.08%. These rates are well below the annual measurable graduation rate objectives set by the state. The 2011-2012 objective was 63.91%. The 2012-2013 objective is 70.53%.
- Except for FY 2011, the percentage of students meeting the Annual Measurable Objective in Math is negative. This means the students at the high school level did not meet the Annual Measurable Objective in FY 2009, 2010, and 2012. However the trend line is moving the right direction.
- The percentage of students meeting the Annual Measurable Objective in ELA is consistently positive. This positive trend in ELA is also reflected in sub-group gap proficiency rates.

The SPCSA qualified the academic program a success.

Nevada Connections Academy should create a clear plan to support math proficiency and growth in both elementary and middle school students. Additionally, Nevada Connections Academy should focus on improving the school's graduation rate by supporting their students to graduate from high school.

#### **Observations**

Nevada Connections Academy is fiscally sound in the near term as indicated by their maintenance of adequate liquid assets to pay liabilities that will mature in the next year and the maintenance of adequate cash to pay over three average months of operating expenses. Their fiscal sustainability outlook is positive as evidenced by their ability to pay debts that mature at dates farther than a year in the future, their sustained positive profit margin over time and their positive annual cash flow.

Nevada Connections Academy's independent CPA audit reports reveal for each of the first five years of their initial charter that their financial statements present fairly, in all material respects, the respective financial position of the governmental activities, the aggregate remaining fund information, and the respective changes in financial position in conformity with accounting principles generally accepted in the United States of America. The auditor's consideration of internal control over financial reporting did not identify any deficiencies in internal control considered to be material weaknesses.

The SPCSA determined that Nevada Connections Academy was financially sound.

#### **Observations**

Longitudinal Analysis of the Annual Performance Audit for Nevada Connections Academy 2007-2012: Identification of Significant and/or Repeat Noncompliant Findings 16, 19, 2, 7, and 10, below, are subsections of NAC 386.410, Performance audits: Report of compliance. If pupils with disabilities are enrolled in the charter school, a determination whether the provision of special educational services and programs to those pupils complies with the requirements set forth in chapters 388 and 395 of NRS and NAC 388.150 to 388.450, inclusive.

- Noncompliant for both 2007-2008 and 2008-2009 Nevada Connections Academy's Individualized Education Plan's (IEP) were monitored by the Nevada Department of Education (NDE) in 2007 – 2008. The monitoring produces findings and thus NCA was on a Corrective Action Plan (CAP) for 2008 – 2009 to correct these findings. In each case of a finding, the school provided reasonable assurance of adequate corrective action plans and submitted IEP files to NDE to prove each correction. Subsequently, NCA has not had any issues, concerns, or problems arise since their last formal Special Education monitoring. A determination whether the charter school complies with NRS 386.590 regarding the employment of teachers and other educational personnel.

- Noncompliant for both 2007-2008 and 2009-2010. Nevada Connections Academy resolved prior findings and currently reports to have 100% of their teachers meeting the Highly Qualified standard as defined under No Child Left Behind.

A determination whether the membership of the governing body of the charter school complies with NRS 386.549 and NAC 386.345, including, without limitation, whether:

- (a) The governing body consists of the number of teachers required by NRS 386.549;
- (b) A majority of the members of the governing body reside in the county in which the charter school is located; and
- (c) Each member of the governing body has filed an affidavit with the Department indicating that he or she:
  - (1) Has not been convicted of a felony or offense involving moral turpitude; and
  - (2) Has read and understands material concerning the roles and responsibilities of members of governing bodies of charter schools and other material designed to assist the governing bodies of charter schools, if such material is provided to him or her by the Department, as required pursuant to NRS 386.549.

- Noncompliant for 2009-2010

Nevada Connections Academy will submit a request to amend the Governing Board By-Laws to clarify all questions below related to board member terms, classes, and board member composition.

7. A determination whether the charter school has complied with generally accepted standards of accounting and fiscal management.

- Noncompliant for 2010-2011; deemed a “repeat finding” for the purposes of this report because it is a financial-related finding, as are those for NAC 386.410(10), below.

10. A determination whether the charter school complies with NRS 386.573 regarding orders for payment of money.

- Noncompliant for 2010-2011 and 2011-2012.

In 2010-11, a non-compliant finding with regard to whether the school had complied with generally accepted standards of accounting and fiscal management resulted from a minor issue involving receipts for cash collected. The issue was not repeated in 2011-12, when Nevada Connections Academy was compliant with the standard. While a non-compliant finding in 2010-11 regarding orders for payment of money resulted from a misapplication of the standard in the school’s Fiscal Control Manual, there was in place a viable internal controls structure to correct the minor issue. The 2011-12 non-compliant finding was very minor. In each case of a “finding”, the level of materiality appeared so low as to not raise significant concern. Additionally, the school provided reasonable assurance of adequate corrective action plans for each finding.

The SPCSA determined that Nevada Connections Academy is a viable organization.

The staff of the State Public Charter School Authority recommends Nevada Connections Academy charter be renewed based on the school’s overall academic, financial, and organizational performance.

After Director Canavero finished his testimony, Jamie Castle, President of Nevada Connections Academy’s Governing Board; Jennifer Dukek, Principal of Nevada Connections Academy; Claudia Burns, Senior Director of Education of Quality, Connections Education presented to the Authority. They gave details on the history of the school, how it had performed over the past 6 years, and where they are hoping to see the school go moving forward.

Authority member had questions for the school’s representatives after they had completed their presentation. Member Mackedon asked how many 7 – 12 graders Nevada Connections Academy has enrolled and how the teacher to student ratio relates to those grades. Ms. Dukek said there are about 500 – 600 seventh through twelfth graders and they have 12 K – 6 teachers with the remainder teaching 7 – 12 grade. Member McCord

asked why there was such a precipitous decrease between 10 and 11 grade. Ms. Dukek said there were a few factors that go into the drop. First, they just started offering 12 grade, and they also tend to see a higher percentage of middle schools students enrolling into their program, but then going back to the high school they were zoned for. Member Mackedon suggested segregating out students who had been continuously enrolled at the school in order to determine how the school is educating those children. The Authority continued their discussion on reasons for enrollment decrease from 10 to 11 grade.

Member Abelman said he was having reservations regarding the renewal of Nevada Connections Academy and asked Director Canavero if the school was serving a specific need. Director Canavero said it was the recommendation of the SPCSA staff to renew the charter and with that believed was serving an educational need. Member Abelman asked Nevada Connections Academy what their goals for graduation rates would be in the future. Ms. Dukek said it is the goal of the school to meet or exceed the average graduation rates for the state. Member Wahl also stressed the importance of inputting data correctly when reporting on different metrics in the school. Dr. Rohrer added that she believed the data would be cleaner in subsequent years and with that the graduation rate would improve.

**Member McCord motioned for the approval for the term specified under statute with provisions that Nevada Connections Academy must create a clear plan for math proficiency improvements and high school graduation rates. Member Abelman seconded. The motion carried unanimously.**

### **Agenda Item 13 - Charter Schools Association of Nevada Update**

Jim LaBuda introduced himself to the Authority as the new director of the Charter School Association of Nevada. Mr. Labuda explained his vision for charter schools in Nevada and the reasons that attracted him to the state. He believes innovation is one of the best ways to improve education and that charter schools are a great way to implement these innovations. He also announced the dates and location for the 2013 Charter Schools Association of Nevada conference that is planned for late June in northern Nevada.

### **Agenda Item 9 – Presentation concerning the Authority’s proposed Performance Framework**

Director Canavero began by giving background on the development of the frameworks for measuring outcomes at SPCSA-sponsored charter schools. He said there are three frameworks, Academic, Financial, and Organizational, and he believed the Organizational and Financial frameworks were ready for Authority approval now. He said the Academic Framework is more complicated and needs more input from parties. Director Canavero said these frameworks will be in addition to the Nevada School Performance framework and will do a better job monitoring and showing outcomes of the charter schools in Nevada. He said one of the things that had been disagreed upon with regard to the Academic Framework was the mission-specific goals being included in the Academic Framework’s measurement. Director Canavero said that he and SPCSA staff believed these goals should not be included in the Academic Framework.

Katherine Rohrer, Education Program Professional then detailed the Academic Framework and the differences between it and the Nevada School Performance Framework (NSPF). The NSPF does not include all the charter schools in its measurements because some of the schools are too small for data to be used. Dr. Rohrer said that these schools then would not receive a rating in the system and the SPCSA needs a framework that consistently measures charter schools performance across all spectrums. She then detailed the values used to shape the Academic Framework. Dr. Rohrer than explained the indicators and measures the Academic Framework would be using to monitor the schools.

Member McCord asked if requiring schools to use certain tests would be an infringement on their autonomy. Dr. Rohrer said that they had chosen the Explore ACT plan so there would be standardized data for measurement across all the schools. Director Canavero also added that it is not uncommon for a sponsor, when developing or implementing frameworks require schools to use certain tests as a condition of sponsorship. Chair Conaboy also added that during legislative hearings a constant balance that is debated is autonomy



versus accountability and how to implement the accountability of the schools without infringing on their autonomy.

Dr. Rohrer continued explaining the framework and the measures that would be used. Chair Conaboy asked Dr. Rohrer how the system would accommodate the shift to the Common Core Standards. Dr. Rohrer said there may be some small bumps, but the frameworks were being developed with that change in mind. She said that SPCSA staff will have to do a lot of groundwork to train the schools to make sure the schools are able to successfully implement the new tests. Member McCord asked if the measurement of post-secondary data would be coming from the National Student Clearinghouse. Dr. Rohrer said that all schools had agreed to use the National Student Clearinghouse and that would be the data that would be collected and measured.

Dr. Rohrer then explained the comparison measurement and how that would be integrated into the Academic Framework's measures. Member McCord said this measurement must always be used carefully because there are circumstances that may alter the measurement. Chair Conaboy asked what the comparison data tells. Dr. Rohrer explained that it can give you an idea of what the Annual Growth of a pupil would be if the charter school they were attending didn't exist. Would they be better off at their home assignment school or the charter school they are attending? She also added that while she has been gathering this data is that overall there has not been a very large gap between the home assignment schools and the charter schools. Member McCord cautioned that the measurement still makes the assumption that people who are in a similar socioeconomic situation live close together then this may not always be the case.

Dr. Rohrer explained that after all the indicators have been measured, those measurements must be given a total score. She explained how the scores would be given and what those scores meant along the spectrum of failure to success of a charter school.

Director Canavero said his goal for this framework and its completion was to take the current framework back to the schools for their review. After they have had their input he said he would like to present the final Academic Framework at the SPCSA meeting in June. Then in September the framework could be implemented for all of the SPCSA-sponsored schools.

Member Wahl asked how the comparisons were being made. Dr. Rohrer said that she looked at the home addresses of the pupils to determine their home school. Chair Conaboy asked Director Canavero exactly what he felt was not ready with the academic model that had been presented. Director Canavero said that the inclusion or deletion of the mission-specific goals had been an item that was still up for debate. As the Director had mentioned earlier, it was the belief of the SPCSA that mission-specific should be left out of this model because it is included in other measures the state uses. Chair Conaboy followed up by asking how the NSPF accommodates the alternative schools. Dr. Rohrer said that the NSPF uses the Average Daily Attendance as a stop-gap and there is language that allows the NSPF to use the mission-specific goals in the measurements. Director Canavero also added that the SPCSA recognizes that the frameworks do not accommodate all educational models. He said there must be an alternative measurement that takes into account the uniqueness of these schools and measures them in a more accurate and effective way.

Brian Flanner, Administrative Services Officer, then presented the Financial Framework. He explained that the financial measurements were nowhere near as complex as the academic measurements that would be used. The framework uses basic financial principles to measure the financial health and future of a given charter school. Chair Conaboy asked that Mr. Flanner to clarify what the review was based on. Mr. Flanner explained the financial data would originate from the Annual Independent Audit each charter school is required to do, which would also cut the amount of time the state auditors would need to spend auditing the charter schools. Mr. Flanner also addressed terminology within the framework and clarified that where the term profit was used, it should have been yearend surplus, and that terminology would be changed in the final draft.

Chair Conaboy asked how lost investments would show up on the framework. Mr. Flanner said the lost investment would show up in a few places in the framework and if the reviewer had no inclination that something was financially wrong, the framework would point out that something was wrong.

Member McCord asked how off-balance sheet charges would be measured. Mr. Flanner said he was unaware of a ratio that was currently measuring that, but he was in contact with the various CPA's and would ask clarify that consideration.

Tom McCormack, Education Program Professional, then explained the Organizational Framework. Mr. McCormack began by saying the purpose of the Organizational Framework was to monitor compliance of the school with the terms and conditions of its charter including compliance with statues and regulations applicable to charter schools. Violations of the terms and conditions of the charter would be deemed a violation of the terms of the contract and may require further action by the charter school's sponsor. The source of the Organizational Framework is the requirements of NAC 386.410, which is the Annual Performance Audit and national best practices models of organizational frameworks. Mr. McCormack then detailed the criteria which the schools Organizational Framework would be measured.

Chair Conaboy asked if the Organizational Framework would be where the mission-specific goals of the schools would be measured. Director Canavero said the framework would measure if the school is living up to the mission they laid out in the charter contract. Chair Conaboy added that the SPCSA's technical assistance needs to be included somewhere within the Organizational Framework. Director Canavero said that the SPCSA can and will provide models that can assist school's with best practices and help them adopt policies that will make them a successful school. Member Abelman asked how governance issues would be dealt with if there is only a one-time audit of the school. Director Canavero said that is a tricky question because you must find the balance between accountability and autonomy. Director Canavero feels if we can strengthen governing boards, it would strengthen the entire school and allow them to remain autonomous in their operations. Member Van added that the frameworks all must hold schools accountable, but there is a need for flexibility within the framework to take into account schools that are different from a typical public school.

Chair Conaboy moved the discussion to which frameworks the Authority would be taking action on during this meeting. Director Canavero asked for the Authority's opinion if the framework was giving appropriate deference to a school's mission-specific goals by removing them from the framework, but ensuring that the goals will always remain in the charter. Chair Conaboy said that she feels that we aren't actually removing the mission-specific goals from the schools. It was her impression that the frameworks are the metrics that are being used to measure the success of the school and the mission is what is driving the whole enterprise. Member McCord commented that the frameworks must not add undue burden to the schools.

**Member McCord moved for the approval of the Financial and Organizational Frameworks and approval of the timeline set forth in the Academic Framework and staff presenting the Academic Framework with more data at the next Authority meeting. Member Abelman seconded. The motion carried unanimously.**

### **Agenda Item 12 - Presentation and possible adoption of the Authority Strategic Plan**

Director Canavero explained the process that had been undertaken in the development of the SPCSA's Strategic Plan. He explained the various focus groups with schools, boards, and other interested parties. He pointed out a few changes that had been made to the plan after they had discussions with him prior to the day's Authority meeting. The Authority and Director Canavero went over some of the word changes they wanted to see. Member McCord said he would like to see the autonomy of the Authority clearly stated within the Strategic Plan of the Authority. All the changes suggested were very minor. Member Mackedon added that she felt really confident and proud that the ideas and concerns that came up during the focus groups were included in the strategic plan.

Member McCord moved for the approval of the Strategic Plan with flexibility given to the Chair and the Director to make the changes that were discussed. Member Van seconded the motion. The motion carried unanimously.

**Agenda Item 16 – Public Comment**

Ryan Reeves, manager of Academica Nevada addressed the Authority in support of Agenda Item 5 regarding the legislative agenda. He said that he had been working closely with Senator Hammond to propose bill language that would be considered fair by all parties involved.

**Member Mackedon moved for adjournment. Member Abelman seconded the motion. The motion carried unanimously.**

The meeting was adjourned at 4:29 p.m.



# Public Testimony

Date: 3/22/2013 Page 1 of 2  
State Public Charter School Authority Meeting

## Testimony by Dr. Wendi Hawk Germane to Agenda ITEM 5 and ITEM 9

Madame Chair and Members of the Board. For the record, my name is Wendi Hawk the Chief Academic Officer of Nevada State High School (NSHS). My purpose is two prong including: 1) offering input on item five regarding proposed legislation of AB 205 and 2) making a formal request for information from the Director of the State Public Charter School Authority (SPCSA).

### Input on Agenda Item 5

I offer input on item five specifically AB 205 and Section 3 of the bill regarding the performance framework. The basis for my input comes from serving on the SPCSA framework committee since its inception, working over nine years from a public charter school's perspective dealing with state accountability measures, and representing Nevada with the National Alliance for Public Charter Schools Masters series where performance frameworks from around that nation have been reviewed, revised, and analyzed in depth.

At this time, I support the development of a performance framework away from legislation that helps create clear standards as a way to measure school performance in the areas that include, but are not limited to operations, finances, academics, and governance. I am asking that the Authority join Nevada State High School in supporting the striking of Section 3 of AB 205 and develop this framework under the provisions of the Authority's policy, procedures, and practices. Use this as an opportunity to separate the sponsorship of the Authority and meet the intended purpose of its values: defensible, transparent, sensitive, accurate, clear, multi-dimensional, actionable, and continuous improvement.

It is my understanding that the intent of the law was only the provision that a framework shall exist, but with so many detailed specifics and unanswered questions already outlined in the law, it is simply not ready. Specifically for the high schools, there are gaps in the data collection that still remain unanswered and have no clear resolutions nearly a year after framework development began.

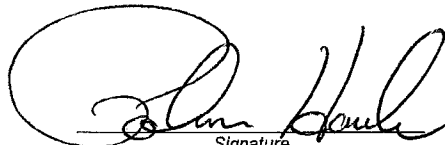
### Request for Information

On or before Monday, 4/1/2013, NSHS is making a formal request for information from the State Public Charter School Authority to formulate and detail complete responses to the following:

1. Why is this Performance Framework necessary in the law and not dealt with at the sponsoring level?
2. Does the Authority Board have the right to make policies and procedures to establish expectations and/or guidelines for charters?
3. Will schools have an opportunity to see example templates of what their schools will look like with the Performance Framework applied before being brought to vote in the legislature?
4. What is the time commitment at the school level to manage all aspects of the Performance Framework?
5. What is the time commitment at the Authorizing level to manage all aspects of the Performance Framework?

  
 Signature  
 Dr. Wendi Hawk, Chief Academic Officer  
 233 N. Stephanie Street  
 Henderson, NV 89074

3/22/13  
 Date

  
 Signature  
 Dr. John Hawk, Chief Operations Officer  
 233 N. Stephanie Street  
 Henderson, NV 89074

3/22/2013  
 Date

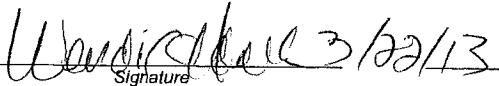



## Public Testimony

Date: 3/22/2013 Page 2 of 2  
State Public Charter School Authority Meeting

6. How will the results of the Performance Framework impact the schools? What portion of the categories will result in shut down or is it an overall score, etc.?
7. What is the cost analysis on the schools for supplies and for staffing to implement?
  - a. Including, but not limited to: fiscal impact, man hours, resources, professional development
8. What is the cost analysis for the sponsoring agents and will the cost be passed on to the schools?
  - a. Including, but not limited to: fiscal impact, man hours, resources, technical support
9. How will implementation of the Performance Framework impact the fees collected by sponsors?
10. Explain to what extent the Authority will be responsibility to help in the development and improvement of schools?
11. How has the Authority moved from a position of compliance monitor to a performance manager with the development of the Performance Framework?
12. How will the Authority ensure the Performance Framework will not impact school autonomy?
13. How will the Performance Framework work to include the measurement of the school's fidelity toward mission?
14. When will results of the Performance Framework be disseminated to schools for performance improvement?
15. How will the Authority ensure feedback is taken by the schools and implemented prior to moving forward?
16. What is the plan to allow students the ability to retest to eliminate any Type-II errors: Reason - the proficiency exams allows for seven opportunities to retest to pass - Will student have the opportunity to retest to improving EXPLORE or PLAN scores?
17. What is your plan and timeline to clean up missing areas in the Framework that are mandated to be measured such as workforce readiness?
18. What is the plan to include exceptions to data requirements that hurt schools that is out of school control such as return rate when the family moves or a religious mission for first semester enrollment into college after high school graduation?
19. How will mandating each measurement in the law allow for the questionable or unknown criteria of the framework to be changes, adapted, or removed if these portions of the law prove to be ineffective, unreliable, and have nothing to do with student achievement or the performance of schools?
20. What is the Authority's plan to maintain the legal requirements of the Annual Performance Audit and implement the new legal expectations of the Performance Framework without burdening the school's and themselves?
21. If AB 205 passes as written on 3/22/2013, what are the milestones and timeline for implementation by the SPCSA, including but not limited to: testing, data gathering, school labeling (rating), etc.?

The purpose of this request is to collect data to address concerns that Nevada State High School has regarding the SPCSA supporting AB 205 Section 3 in law. NOTE: Many of these questions and attempts at gathering input have been asked to the Authority during phone sessions open to all public charter schools. Some of these questions and others have lacked the necessary clarity and specificity for Nevada State High School. The school is asking for a response to these questions come as one response reviewed by the Director of the Authority and sent electronically on or before Monday, April 1, 2013 to [whawk@earlycollegenvv.com](mailto:whawk@earlycollegenvv.com).

  
Signature  
Dr. Wendi Hawk, Chief Academic Officer  
233 N. Stephanie Street  
Henderson, NV 89074  
Date

  
Signature  
Dr. John Hawk, Chief Operations Officer  
233 N. Stephanie Street  
Henderson, NV 89074  
Date 3/22/2013

**Charter School Association of Nevada – Resolution # 002**

A Resolution of the Charter School Association of Nevada (CSAN) Board of Trustees (The Association) - Urging the Governor, Legislators, Public Officials and Charter School Sponsors to Support Positive Legislative Efforts Giving Freedom and Flexibility to Public Charter Schools, Establishing Clear Language to Support Schools Unique Missions, and Eliminating Duplicative Efforts for Sponsors that Takeaway Valuable Resources from Technical Support for the term of the 77<sup>th</sup> Nevada Legislative Session over the next two to three months.

WHEREAS, The support of positive legislative efforts matter to more than 32 public charter schools and the education of more than, 18,000 elementary/middle/secondary charter school students, and 2.5 million residents in Nevada; and

WHEREAS, The term *“support positive legislative efforts giving freedom and flexibility to public charter schools, establishing clear language that supports public charter schools unique missions, and eliminating duplicative efforts for sponsors that takeaway valuable resources from technical support”* are the efficacies around the charter school movement in Nevada which sees public charter schools open and built on limited budgets that demand efficient and effective use of resources and a passion to stay mission focused on language that allows each freedom and flexibility; and

WHEREAS, Charter schools are given the freedom and flexibility to operate independently in exchange for higher accountability when showing support for positive legislative efforts that are built within a system that assists, develops, guides, monitors, and supports schools to independence and resourcefulness – to preserve the mission of each school while allowing for growth, development, and innovation towards solutions that meet the needs of Nevada’s students; and

WHEREAS, Educational reform efforts provide quality standards showing value to the business community with students that are college and career-ready; and

WHEREAS, Now, therefore, be it

RESOLVED, this 21<sup>st</sup> day of March, 2013, by the Board of Trustees, Charter School Association of Nevada, that during the next two to three months for the term of the 77<sup>th</sup> Nevada Legislature support positive legislative efforts giving freedom and flexibility to charter schools, establishing clear language that supports charter schools unique missions, and eliminating duplicative efforts for sponsors that takeaway valuable resources from technical support.

PASSED, APPROVED AND ADOPTED this twenty-first day of March 2013.

CHARTER SCHOOL ASSOCIATION OF NEVADA



John Hawk, President

7. Comments

- the Authority provided a friendly amendment to SB559 with the intent to ensure transparent and fair opportunities for charter schools to occupy district facilities. Available on Neils. Members of Senate Ed asked for follow-up meetings.

- not sure of the appropriateness of deliverables and technical support expectations within a contract. Certainly a good idea to articulate technical support that schools can count on from sponsor.

9. Charter schools are designed to be held to a higher level of accountability in exchange for more freedom. Most of these proposed bills suggest implementing legislative restrictions that will limit charter schools to a one-size-fits-all model rather than emphasize the individual missions and unique approach each school takes to education. The ideas in most of these bills can be accomplished at a local or authorizing level, and it appears that the staff and board members who are supposed to be supporting charter schools are displacing their responsibility to govern onto the State Legislature. The Authority can have a performance contract and a performance framework, but they should do so in an open, transparent, stable, and clear manner that they take responsibility for – not the legislature. The message to the Authority is to do their job as advocates for charter schools rather than hiding behind unnecessary and restricting bills. The Authority should be defending against ANY legislation that intrudes into the freedoms for charters and instead only support those bills that promote more positive growth and opportunities for successful charter schools and their students.

10. Eliminate performance framework from AB 205

11. I support all of the concepts and ideas present in the current legislation. The performance framework legislation is still being tweaked, and how those details are resolved and implemented is, of course, critical to determining the level of support for the bill. Nevertheless, I support the concept and hope it is implemented in a manner that is efficient and effective.

25 responses per page

answered question 11

skipped question 20

6. Please identify any clean-up language you would recommend in any of the bills.

7. Comments	Response Count
17. see comments	11
18. I don't have any at this time.	11
19. None	20
20. Allow schools directory information	11
21. I would request that the nature of charter schools be kept in mind for all bills. While I appreciate accountability and mandatory reporting, I don't like having a sponsor who may not approve of charter schools be the deciding factor for what a high performing charter school should be. I think we need to be true to some extent to the autonomy of charter schools without all of our forms of freedom being removed.	24
22. -	7
23. looks good	24
24. AB205 should include language that allows for the mission and the vision of the school to be recognized as a large part of the performance framework. It should also allow for flexibility to allow charters to celebrate what they are doing for at risk/all students and not act as a penalizing method for those students who are not receptive to supports.	7

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7. Comments

1. We support question number 4, but are having trouble locating it in a bill. Will you please give us direction on this?
2. SB384 -Clarification about the facilities financing portion of this bill... Does this apply to all charters or just Authority charters?  
SB205 - We support moving towards a performance based system versus compliance, however the compliance issues we have going away with this. The issue of monitoring a charter for compliance could be clearly detailed so there is an opportunity for technical support prior to monitoring and then define how compliance is determined (i.e. document review, site visit, random on-site requests for documents, etc.). It seems the issue of compliance monitoring differs from school to school.  
The language details too much about what the performance framework should entail without room for negotiation based on the school model which is unique to each school. Since every charter is unique in their model, the framework should allow for flexibility in the model and points awarded for meeting the model as stated in the charter. For example, one of the program components of my school is designed to develop data-based personal learning plans. The framework could allow for some measure to analyze whether or not we are implementing this program component. In addition, schools who serve at-risk students based on the state definition of at-risk should be measured on how they are addressing such at-risk needs. Language should be added to tailor the framework according to these items and have those items weigh in on the final score which includes proficiency, growth and attendance.  
Lots of talk about "proficiency". No language on what determines proficiency and how confidence intervals should be used as they are a statistical safeguard to ensure data is valid and reliable (confidence intervals have been eliminated in the most recent performance framework).

25 responses per page

answered question 11  
skipped question 20



5. Do you support legislation...	YES	NO	UNSURE	Rating Count
...eliminating restrictions on times during which a charter school may use school buildings owned by a school district?	91.7% (22)	0.0% (0)	8.3% (2)	24
...allowing employees, members of a committee to form, or members of a governing body of a public charter school preferential treatment to enroll their child rather than the being subject to a lottery?	83.3% (20)	8.3% (2)	8.3% (2)	24
...having sponsors assemble a team of reviewers who possess the appropriate knowledge and expertise with regard to the academic and operational experience of a public charter school to review and evaluate the application of a new public charter school?	91.7% (22)	4.2% (1)	4.2% (1)	24
...incorporating in a public charter school contract stating the deliverables and technical support expectations of a sponsor to a public charter school in return for their sponsorship fee?	66.7% (16)	12.5% (3)	20.8% (5)	24
...developing a public charter school contract between a sponsor and the charter school that describes administrative relationship between the sponsor of the charter school and the governing body of the charter school, including,	62.5% (15)	16.7% (4)	20.8% (5)	24
		answered question		24
		skipped question		7

5. Do you support legislation... without limitation, the rights and duties of the sponsor and the governing body?	41.7% (10)	29.2% (7)	29.2% (7)	24
...creating a performance framework from each public charter school sponsor for the purpose of developing clear standards that will address academic achievement, proficiency of pupils, academic disparities of pupils, rate of attendance, percentage of pupils who reenroll, financial condition and sustainability, rates of graduation, preparation of for post-secondary education, career, and college readiness?	95.8% (23)	0.0% (0)	4.2% (1)	24
...exempting public charter schools from local ordinances that mandate improving landscape, contributing to cost of road and sidewalk improvements, requiring to pay for zoning fees, paying for additional inspection fees for being a school, imposing restrictions on school location, or using tax-exempt status as a factor regulating against locating a school on a property?	79.2% (19)	0.0% (0)	20.8% (5)	24
...authorizing the State Public Charter School Authority to be a pass-through and be held harmless to issue bonds, notes and other obligations to finance the acquisition of property, buildings and facilities for public charter schools?	91.7% (22)	0.0% (0)	8.3% (2)	24
...funding a revolving loan account that public charter schools could access to receive low interest loans?		answered question		24
		skipped question		7

## MEMORANDUM IN SUPPORT OF SENATE BILL 384

### Legislative Purpose

Establish procedures for charter schools to use tax-exempt bonds to finance the acquisition and construction of land and buildings. The bonds are not and do not give rise to a general obligation or liability of the State and do not affect the general credit of the State.

### Issue

A major obstacle in charter school development in the State of Nevada is facilities funding. Most charter schools are limited to signing leases with standard commercial terms and lease rates, which include annual rent escalators and provide no opportunity to obtain the benefits of ownership of the facility. A proven, low-cost financing option which exists in many other States is the issuance of tax exempt bonds through a State agency on behalf of the charter schools.

### Current Conditions

Existing State laws make it extremely difficult if not impossible to issue bonds for charter schools. These laws are designed for economic/industrial development bonds and do not directly address charter schools. Current laws contain many restrictive requirements which practically prohibit charter schools from participating, including; bond projects must comply with the State Plan for Economic Development, require a 10 year presence in the State, require a 5 year operating history, and require approvals from the city or county in which the charter school is located.

As a result, the only tax-exempt bond issuance completed by a State authorized Nevada charter school was completed through an out of state issuing entity. In order to use the out of state entity, the charter school was forced to pay higher interest rates, go through a more complicated process and incur increased financing expenses.

### The Legislation

- SB 384 gives the State Public Charter School Authority the power and ability to issue bonds on behalf of Charter Schools.
- The Nevada Public Charter School Authority is clearly designated as a conduit, or pass-through, issuer of the bonds.
- The legislation prohibits any general obligation or liability upon the State of Nevada or the Nevada Public Charter School Authority or any charge upon the State's general credit.
- The bonds are secured solely by school's revenues and a mortgage on the land and building
- Each bond issue is for a specific, pre-defined project; not a pool financing.
- The legislation changes the name of the Charter School Authority in order to more clearly identify it as a Nevada government entity on the bond market.
- The legislation allows Charter School Boards to incorporate as 501(c)(3) non-profit entities, which is necessary for the issuance of tax-exempt bonds under federal tax law.
- Approval of the Charter School Sponsor is required prior to issuing debt.
- Costs incurred by the NPCSA will be covered by fees charged to participating schools which will be funded through bond proceeds.

**EXHIBIT 5**

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**Attorney General's Office**  
100 N. Carson Street  
Carson City, Nevada 89701-4717

**EXHIBIT 5**

1 ADAM PAUL LAXALT  
Nevada Attorney General  
2 GREGORY D. OTT  
Deputy Attorney General  
3 Nevada Bar No. 10950  
100 N. Carson Street  
4 Carson City, Nevada 89701-4717  
(775) 684-1229  
5 *Attorneys for the State of Nevada,  
State Public Charter School Authority*  
6

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

9 NEVADA CONNECTIONS ACADEMY, )  
10 Plaintiff, )  
11 v. )  
12 STATE OF NEVADA, ex rel., STATE )  
PUBLIC CHARTER SCHOOL )  
13 AUTHORITY, a political subdivision of )  
the STATE OF NEVADA, and PATRICK )  
14 GAVIN, in his official capacity as )  
Executive Director of the STATE )  
15 PUBLIC CHARTER SCHOOL )  
AUTHORITY, )  
16 Respondents. )  
17

CASE NO. 16 OC 001941 B

DEPT. NO. I

**DECLARATION OF GREGORY D.  
OTT IN SUPPORT OF  
DEFENDANTS' MOTION TO  
DISMISS**

18  
19 I, Gregory D. Ott, do certify under penalty of perjury as follows:

20 1. I am the Deputy Attorney General currently assigned as counsel to the State  
21 Public Charter School Authority staff and have personal knowledge of the facts stated  
22 herein, and if called upon to testify as to the matters set forth herein, I would be  
23 competent to do so. I make this declaration in support of Defendants' Motion to Dismiss  
24 ("Motion").

25 2. Attached to the Motion as Exhibit 1 is a true and correct copy of the minutes  
26 from the Authority Board meeting of July 29, 2013.

27 3. Attached to the Motion as Exhibit 2 is a true and correct copy of the  
28 published agenda from the Public Charter School Authority ("Authority") Board meeting

1 of March 22, 2013.

2 4. Attached to the Motion as Exhibit 3 is a true and correct copy of Nevada  
3 Department of Education published cohort graduation rate for Nevada Connections  
4 Academy, publicly available by accessing NevadaReportCard.com.

5 4. Attached to the Motion as Exhibit 4 is a true and correct copy of the minutes  
6 from the Authority Board meeting of March 22, 2013.


7 DATED this 21st day of November, 2016.

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By:

  
GREGORY D. OTT  
Deputy Attorney General

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Attorney General's Office  
100 N. Carson Street  
Carson City, Nevada 89701-4717