

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*  
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DEPUTY

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

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

CASE NO. 16 OC 002491 B  
DEPT. NO. I

16 Plaintiff,

17 vs.

18 STATE OF NEVADA, ex rel., STATE  
PUBLIC CHARTER SCHOOL  
19 AUTHORITY, a political subdivision of  
the STATE OF NEVADA, and PATRICK  
20 GAVIN, in his official capacity as  
Executive Director of the STATE  
21 PUBLIC CHARTER SCHOOL  
22 AUTHORITY,

23 Respondents.

24 **MOTION TO DISMISS PLAINTIFFS' COMPLAINT FOR DECLARATORY AND**  
25 **INJUNCTIVE RELIEF, PETITION FOR JUDICIAL REVIEW, AND PETITION**  
26 **FOR WRIT OF MANDATE/ REVIEW**  
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1 Defendant's STATE OF NEVADA, ex rel., STATE PUBLIC CHARTER SCHOOL  
2 AUTHORITY (Authority), and PATRICK GAVIN (Gavin), through their counsel, Adam  
3 Paul Laxalt, Attorney General of the State of Nevada, and Gregory D. Ott, Deputy  
4 Attorney General, move to dismiss Plaintiffs' Complaint for Declaratory and Injunctive  
5 Relief, Petition for Judicial Review, and Petition for Writ of Mandate/Prohibition  
6 (Complaint).

7 **MEMORANUM OF POINTS AND AUTHORITIES**

8 **I.**

9 **INTRODUCTION**

10 This Court should dismiss Plaintiffs' Complaint for failure to state a claim for  
11 which relief can be granted, Nevada Rule of Civil Procedure (NRCP) 12(b)(5). **First**,  
12 Plaintiffs' request for declaratory judgment is not ripe as no harm is imminent. **Second**,  
13 Plaintiffs' request for judicial review is not ripe as the agency has not had a hearing on  
14 the merits and the actions complained of are not a contested cases. **Third**, Plaintiffs'  
15 request for a writ is improper as it does not allege the Authority failed to perform a  
16 specific duty. **Fourth**, Plaintiffs' estoppel argument fails because Plaintiffs do not and  
17 cannot allege the Authority promised the school would stay open if Nevada Connections  
18 Academy (NCA) drafted a graduation plan. **Fifth**, Plaintiffs' implied covenant fails  
19 because Plaintiffs' argument is untethered to any contractual provision.

20 **II.**

21 **PLAINTIFFS' ALLEGATIONS IN THEIR COMPLAINT**

22 Plaintiffs pled five causes of action in their Complaint. First, Plaintiffs seek  
23 declaratory/injunctive relief. Plaintiffs allege that a draft contract, which NCA did not  
24 sign, violates separation of powers principles. (Ex. 1, Complaint at ¶¶59-73). Second,  
25 Plaintiffs seek judicial review under the Administrative Procedures Act of the Authority's  
26 notice of closure issued on September 30, 2016. (*Id.* at ¶¶ 74-79). Third, Plaintiffs seek a  
27 writ of mandate/review/ prohibition to compel the Authority to allow NCA to remain open  
28 until the end of school year. (*Id.* at ¶¶80-85). Plaintiffs assert that (i) the Authority's

1 notice of closure was not based on substantial evidence, (ii) the Authority's proposal of a  
2 draft contract to NCA, which NCA did not sign, violated Open Meeting Law, and NCA  
3 desired to speak when the Authority issued the notice of closure. (*Id.*) Fourth, Plaintiffs'  
4 allege breach of the implied covenant of good faith and fair dealing because the draft  
5 contract proposed by the Authority, which NCA did not sign, somehow violates the  
6 charter contract. (*Id.* at ¶¶86-93). Fifth, Plaintiffs allege that the Authority is equitably  
7 estopped from having a hearing on school closure because NCA developed a graduation  
8 plan. (*Id.* at ¶¶94-109). NCA also requests this Court judicially review a July 29, 2016  
9 Authority action relating to a conditional approval of a graduation rate improvement  
10 plan. As the Complaint was filed October 14, 2016 and NRS 233B.130 requires any  
11 decision requesting judicial review to be filed within thirty (30) days of the final decision,  
12 this cause of action violates the statute of limitations and should be dismissed.<sup>1</sup>

### 13 III.

#### 14 PROCEDURAL STATUS OF AUTHORITY PROCEEDING

15 On September 23, 2016, the Authority Board directed staff to issue a Notice of  
16 Intent to Revoke the Written Charter of Nevada Connections Academy (the "Notice of  
17 Intent"), "based on having a graduation rate for the preceding school year that is less  
18 than 60 percent".<sup>2</sup> Staff then sent NCA the Notice of Intent on September 30, 2016.<sup>3</sup> The  
19 consideration and issuance of the Notice of Intent along with the December 16 hearing to  
20 determine if the deficiencies have been corrected fulfills the Authorities duty to determine  
21 "whether the written charter should be revoked . . . in accordance with NRS 388A.285,  
22 388A.300 or 388A.330, as applicable."<sup>4</sup> The Notice of Intent is consistent with  
23 NRS 388A.330(2) and commenced the process which culminates in a hearing before the  
24 Authority as required by NRS 388A.330(3). The Notice of Intent notifies the school of the

25  
26 <sup>1</sup> The Petition for Judicial Review in this case is also entirely duplicative of NCA's  
27 suit in case 16 OC 1941 B. Defendants filed a motion to dismiss that Complaint on  
substantive grounds on November 21, 2016.

<sup>2</sup> Exhibit 1, Minutes of September 23, 2016 Authority Board Meeting.

<sup>3</sup> Exhibit 2, Notice of Intent to Revoke Written Charter, page 3.

<sup>4</sup> NRS 388A.223(1)(f).

1 deficiencies (the school's graduation rate), gives the school a time period to correct those  
2 deficiencies (the cure period remains open through December 2, 2016), and sets a date for  
3 a hearing before the Board to determine if the deficiencies have been corrected  
4 (December 16, 2016). If the deficiencies have been corrected to the satisfaction of the  
5 Authority, the Authority shall not take action.

6 At the time the court is being asked to enjoin proceedings, the Authority is in the  
7 middle of its duties pursuant to NRS 388A.223(1)(f) and (g) and NRS 388A.330. It has  
8 issued a Notice of Intent, which notifies the school that its graduation rate is below the  
9 statutorily acceptable level. The school is still within the time period within which it may  
10 take steps to cure the deficiency, the Authority has not conducted a hearing to determine  
11 whether the deficiency has been corrected, and the Authority has not conducted a hearing  
12 to determine if the school should face any accountability. Legal action at this early stage  
13 is inappropriate as it asks the court to substitute its own wisdom for the subject matter  
14 expert, the statutorily created body tasked with sponsoring and overseeing  
15 charter schools.

16 IV.

17 STATEMENT OF FACTS

18 A. NCA is an Online Public Charter School

19 NCA is an online, distance-education charter school serving public school students  
20 throughout Nevada in grades K 12. As a public school, NCA receives taxpayer-dollars  
21 from the State's Distributive School Account to pay for the education of students choosing  
22 to attend. NCA is allowed to operate pursuant to a charter initially issued in 2007 for a  
23 term of six years pursuant to statute.

24 B. Authority Requested NCA Provide a Graduation Plan in 2013

25 In 2013, NCA sought a renewal of its 2007 charter from the Authority at its March  
26 22, 2013 meeting. Despite the Authority's governing Board expressing concerns about  
27 NCA's low graduation rates of 26.5% in 2011 and 36.08% in 2012, the Authority approved

28 ///

1 the renewal of NCA with provisions that it create a plan for improvements in its high  
2 school graduation rates.

3 **C. NCA's Graduation Rate Did Not Improve Significantly After 2013**

4 Despite the directive from the Authority's Board, NCA's graduation rate showed  
5 little improvement. NCA's graduation rate was 33.91% in 2013. It was 37.19% in 2014.  
6 It fell again to 35.63% in 2016.

7 **D. The Authority Did Not Mandate NCA Convert to Charter Contract**

8 During the 2015 legislative session, the Nevada legislature passed Senate Bill  
9 (SB) 509 which, among other things, authorized sponsors of charter schools to  
10 reconstitute a school's governing body or revoke the written charter of a school if the  
11 graduation rate for the preceding year was below sixty percent (60%). Authority staff  
12 worked with a number of schools eligible for closure due to low graduation rates to  
13 develop plans for improvement with measureable benchmarks. At its July Meeting, more  
14 than three years after the Authority's Board directed the school to create a plan for  
15 graduation rate improvement, NCA presented a plan to the Board. The Board  
16 conditioned its approval of the plan upon the school entering into a charter contract of  
17 agreeable terms. No contract was agreed to, so the contingent approval of the July 29,  
18 2016 Board meeting failed.

19 In sum, Contrary to the allegations of the complaint, the Board did not  
20 mandate NCA to convert its charter to a contract. It conditioned its approval of a plan on  
21 such a conversion. The only consequence of the failure to convert its written charter to a  
22 charter contract was the failure of approval of its graduation rate improvement plan. As  
23 of the filing of this Motion to Dismiss, NCA remains open and operational pursuant to its  
24 2013 written charter.

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V.

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).

A. No Likelihood of Success on the Merits

1. This Case is Not Justiciable

a. This Case is Not Ripe Absent Authority’s Final Decision on Closure

“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>5</sup> NCA asks the court that the Authority’s September 23, 2016 motion be vacated despite admitting that the Authority is within its legal authority to *consider* closure.<sup>6</sup> However, NCA fails to allege any harm caused by the decision other than in the broadest conclusory language. While harm need not already have been suffered, it must be probable for the issue to be ripe for judicial review.<sup>7</sup>

NCA claims that thousands of students in Nevada are being put in jeopardy by NCA being subjected to ongoing closure proceedings. NCA is alleging that the mere act of *considering* action against the school (which is explicitly and uncontrovertibly allowed by NRS 388A.330(1)(e)) is damaging students by creating uncertainty. This assertion is striking in that it would effectively prevent the Authority from *ever* considering any

<sup>5</sup> *Knittle v. Progressive Casualty Ins. Co.*, 112 Nev. 8, 10, 908 P.2d 724, 725 (1996).

<sup>6</sup> Motion for Preliminary Injunction, page 8, lines 12-13. “the legislation gave the Agency discretion to consider the possibility of closure. . .”

<sup>7</sup> *Herbst Gaming, Inv. v. Heller*, 122 Nev. 877 (2006).

1 accountability action (including both closure and reconstitution of the school's governing  
2 board) against any school as the contemplation of action would be injury. In fact, there is  
3 no evidence of harm to students and NCA remains in operation and will likely have  
4 received another payment from the Distributive School Account of 1.6 million dollars by  
5 the time this motion for Preliminary Injunction is heard. Even in the most adverse  
6 situation that the school could envision (an outright termination of the charter and  
7 closure of the school), that action would not take place until, at the earliest, the end of the  
8 2016–17 school year.<sup>8</sup>

9 The students attending NCA would not be denied an education. The  
10 constitutional–protections for public education are larger than this school. Students  
11 would continue to have all the options to attend district schools that other children  
12 throughout the state enjoy, including traditional public schools, charter schools, and  
13 distance education.

14 **B. Issues Concerning the Proposed Contract Are Moot**

15 “A moot case is one which seeks to determine an abstract question which does not  
16 rest upon existing facts or rights.” *Nat'l Collegiate Athletic Assn v. Univ. of Nevada,*  
17 *Reno*, 97 Nev. 56, 58, 624 P.2d 10, 11 (1981). Plaintiffs’ argue that the proposed contract  
18 violates separation of powers principles. Plaintiffs ignore the salient fact that they did  
19 not sign the proposed contract, it is not in force for this Court to consider, and Plaintiffs  
20 have no existing rights or obligations under the unsigned draft agreement that could  
21 conceivable create a live controversy. Therefore, Plaintiffs’ novel separation of powers  
22 argument is merely an abstract question of law that does not rest upon existing fact.

23 **1. Judicial Review Is Not Permissible At This Time**

24 **a. Complained Of Decision Is An Interlocutory Notice**

25 “Courts have no inherent appellate jurisdiction over official acts of administrative  
26 agencies except where the legislature has made some statutory provision for judicial  
27

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<sup>8</sup> Notice of Intent to Revoke Written Charter, Exhibit 2, paragraph 5.

1 review.”<sup>9</sup> “Pursuant to the [APA] ..., not every administrative decision is reviewable.”<sup>10</sup>  
2 Instead, only those decisions falling within the APA's terms and challenged according to  
3 the APA's procedures invoke the district court's jurisdiction.<sup>11</sup> NCA does not contend that  
4 the September 23, 2016 decision to commence accountability proceedings was a contested  
5 case under NRS §233B.032. Instead, it alleges that any review of the final decision of the  
6 December 16, 2016 hearing would not provide adequate remedy because “the harm will be  
7 immediate” and “the damage will be done given the pending uncertainty of the school, its  
8 board, its staff, parents, and above all, its students.”<sup>12</sup> However, it does not provide any  
9 support for these legal conclusions. The Notice of Intent clearly provides that any  
10 decision to close the school would be effective no earlier than the end of the 2016-17 school  
11 year allowing plenty of time for students and families to prepare to transition, or for  
12 courts to examine the record of the December 16 hearing along with findings of fact and  
13 conclusions law.<sup>13</sup> NCA’s Motion simply provides no evidence that review of the final  
14 decision would not provide adequate remedy, thus it is not reviewable under  
15 NRS 233B.130(1) and should be dismissed.

16 **b. Judicial Review of the December 16 Hearing Means that NCA**  
17 **Has an Adequate Remedy at Law**

18 After the Authority’s Board has heard the evidence regarding NCA’s putative  
19 efforts to cure the deficiencies in its graduation rate and rendered its decision pursuant to  
20 NRS §388A.330, NCA may institute a petition for judicial review under NRS §233B.130  
21 or such action may be unnecessary because it may be satisfied with the decision of the  
22 seven members appointed to serve on the Authority’s Board pursuant to NRS §388A.153.

23 In sum, school closure is only a potentiality at this point in time. No court, at least  
24 Plaintiffs certainly cite to none, has found that having to attend a hearing is irreparable  
25

26 <sup>9</sup> *Washoe County v. Otto* Nev. 282 P. 3d 719, 724 (2012).

27 <sup>10</sup> *Private Inv. Licensing Bd. v. Atherley*, 98 Nev. 514, 515, 654 P.2d 1019, 1019  
(1982).

28 <sup>11</sup> *Id.*

<sup>12</sup> Motion for Preliminary Injunction, page 23 line 21-22 and page 24, line 4-5.

<sup>13</sup> Notice of Intent to Revoke Written Charter, Exhibit 2, paragraph 5.



1 harm. Plaintiffs have an adequate remedy at law – a petition for judicial review *if* the  
2 Authority decides to close NCA.

3 **2. A Writ is Not a Proper Remedy**

4 A writ is an extraordinary remedy to be reserved for extraordinary cases in which  
5 an appeal is an inadequate remedy.<sup>14</sup> Mandamus is an extraordinary remedy, and the  
6 decision as to whether a petition will be entertained lies within the sound discretion of  
7 the court.<sup>15</sup>

8 NCA requests a writ “directing the Authority to proceed in a lawful manner and  
9 allow NCA to continue operations in accordance with Nevada law under its existing  
10 charter and subject to the Authority’s continuing jurisdiction.”<sup>16</sup> However, a request to  
11 proceed in a lawful manner and allow continued operations is a request in anticipation of  
12 future failures by the Authority. Nevada law is explicit that “a writ of mandamus will not  
13 be granted in anticipation of a supposed omission of duty.”<sup>17</sup> An actual default or  
14 omission of duty is an essential prerequisite to the issuance of a writ of mandamus and  
15 “the writ will not issue until that time.”<sup>18</sup> The writ sought by NCA does not address an  
16 existing omission or default and a presumption of future omissions, however strong, is  
17 insufficient to support a writ.<sup>19</sup>

18 **4. NCA’s Equitable Estoppel Theory Is Legally Deficient**

19 **a. Authority Directed Development of A Graduation Rate  
20 Improvement Plan In 2013**

21 NCA implies the only reason it worked on improving its graduation rate was under  
22 the threat of closure. NCA’s graduation rate has been below forty percent (40%) since  
23 before the Authority approved the school’s renewal in 2013.<sup>20</sup> The 2013 renewal required  
24

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25 <sup>14</sup> *In re McDonald* 489 U.S. 180 (1989), NRS 34.170; NRS 34.330.  
26 <sup>15</sup> *Poulous v. District Court*, 98 Nev. 453, 455, 652 P.2d 1177, 1178 (1982).  
27 <sup>16</sup> NCA’s Complaint, Prayer for Relief, paragraph 3.  
28 <sup>17</sup> *Brewery Arts Ctr. v. State Bd. Examiners* 108 Nev. 1050, 1053, 843 P. 2d 369, 372  
(1992).  
<sup>18</sup> *State of Nevada v. Gracey* 11 Nev. 223, 234 (1876).  
<sup>19</sup> *Id.*  
<sup>20</sup> Exhibit 3, Cohort Graduation Rates.

1 the development of a graduation rate improvement plan.<sup>21</sup> However, despite the directive  
2 from the Authority's Board, NCA's graduation rate showed little improvement. In 2013,  
3 it fell to 33.91%; in 2014 it rose to 37.19% before falling again to 35.63% in 2016. NCA  
4 now asserts that despite years of failing to graduate sixty percent (60%) of its students  
5 and despite a specific directive from its authorizer to do so, it would never have developed  
6 a graduation rate improvement plan had it not been threatened with accountability by  
7 the Authority's Board.

8 *Worse still*, the essential element of equitable estoppel that Authority's conduct  
9 misled Plaintiffs is lacking.<sup>22</sup> **First**, NCA does not state that Authority told it that NCA  
10 would remain open if it simply created a graduation plan. **Second**, NCA could not have  
11 been misled by anything Authority said in 2016 regarding the graduation plan since NCA  
12 was already under an obligation to prepare one since 2013.

13 **b. An Agency Cannot Be Estopped From Performing Its Duties**

14 Plaintiffs' estoppel theory is legally unfounded since a government body cannot be  
15 estopped from performing its government function. *Chanos v. Nevada Tax Comm.*, 124  
16 Nev. 232, 237-238, 181 P.3d 675, 679 (2008). In considering and making a determination  
17 regarding closure or reconstitution of NCA, the Authority is performing its job as required  
18 by NRS 388.223(f) and (g). Nevada law empowers the Authority to consider closure or  
19 reconstitution where a charter school's graduation rate dips below sixty percent (60%).  
20 NRS §388A.330(1)(e). The Authority cannot be estopped from considering closure, which  
21 it is empowered and required to do by Nevada law.

22 **5. Authority Did Not Breach the Charter**

23 "Where the terms of a contract are literally complied with but one party to the  
24 contract deliberately countervenes the intention and spirit of the contract, that party can  
25

26  
27 <sup>21</sup> Exhibit 3, Cohort Graduation Rates. Exhibit 4, State Public Charter School  
Authority, Minutes for Meeting on March 22, 2013.

28 <sup>22</sup> *Cheqer, Inc. v. Painters & Decorators*, 98 Nev. 609, 614, 655 P.2d 996, 998-99  
(1982).

1 incur liability for breach of the implied covenant of good faith and fair dealing.”<sup>23</sup> The  
2 doctrine of good faith cannot be misused to create rights that the parties themselves did  
3 not agree to in the contract’s language.<sup>24</sup>

4 Here, the individual Plaintiffs have no contract with the Authority. To the extent  
5 the charter can be considered a binding contract with the Authority, NCA points to no  
6 contractual clause which is even applicable to this dispute. *Worse still*, NCA fails to  
7 explain how the Authority’s mere proposal of a new contract can be considered a breach of  
8 the Charter. NCA cannot create an obligation that does not exist in order to invent a  
9 breach of the implied covenant of good faith and fair dealing. Additionally, Plaintiffs’  
10 claims for damages in the form of attorney’s fees fail to cite to contract or law allowing for  
11 an award of fees, which is required in Nevada.<sup>25</sup>

12 VI.

13 CONCLUSION

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

20 DATED this 28th day of November, 2016.

21 ADAM PAUL LAXALT  
22 Attorney General

23 By:

24   
25 GREGORY D. OTT  
26 Deputy Attorney General

27 <sup>23</sup> *Hilton Hotels Corp. v. Butch Lewis Prod., Inc.*, 107 Nev. 226, 234, 808 P.2d 919,  
28 922-923 (1991).

<sup>24</sup> *Nelson v. Heer*, 123 Nev. 217, 226-227, 163 P.3d 420, 427 (2007).

<sup>25</sup> NRS 18.010.

CERTIFICATE OF SERVICE

I certify that I am an employee of the State of Nevada, Office of the Attorney General, and that on this 28th day of November, 2016, I filed the foregoing **MOTION TO DISMISS PLAINTIFFS' COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF, PETITION FOR JUDICIAL REVIEW, AND PETITION FOR WRIT OF MANDATE/ REVIEW**, with the Clerk of the Court and deposited for service by way of the United States Postal Service to:

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

And by electronic mail to:

Laura K. Granier  
Davis Graham & Stubbs, LLP  
50 W Liberty St., Ste. 950  
Reno, NV 89501  
[Laura.granier@dgsllaw.com](mailto:Laura.granier@dgsllaw.com)

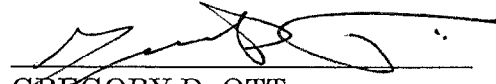
Patrick Gavin, Executive Director  
State Public Charter School Authority  
1749 North Stewart St., Ste. 40  
Carson City, NV 89706-2543  
[pgavin@spsca.nv.gov](mailto:pgavin@spsca.nv.gov)

/s/ Marissa Houk  
Marissa Houk, Employee of the State of  
Nevada, Office of the Attorney General

**AFFIRMATION PURSUANT TO NRS 239B.030**

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

DATED this 28th 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  
100 N. Carson Street  
Carson City, Nevada 89701-4717

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EXHIBIT INDEX

Exhibit	Description	Number of Pages
1	State Public Charter School Authority, Minutes for Meeting on September 23, 2016	4
2	Notice of Intent to Revoke Written Charter, dated September 30, 2016	2
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

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

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**EXHIBIT 1**

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

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**EXHIBIT 1**

**NEVADA STATE PUBLIC CHARTER SCHOOL AUTHORITY**

**September 23, 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  
Jacob Snow  
Jason Guinasso

**In Carson City:**

None

**Teleconference:**

None

**BOARD MEMBERS ABSENT**

Kathleen Conaboy  
Stavan Corbett

**AUTHORITY STAFF PRESENT:**

**In Las Vegas:**

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



**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**

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

**Agenda Item 1 – Public Comment**

Dr. Kit Kotler spoke regarding statewide systems of public education and information regarding Silver State Charter School. Laura Grainer spoke in behalf of Nevada Connections Academy. Sharon Frederick board member for Beacon Academy of Nevada talked about being termed out for the spring of 2017. Africa Sanchez talked about staff recommendation for Notice of Intent to terminate the charter contract. Chris Orme represents Tower Distribution and Tower Distribution, landlord of Quest Torrey Pines Campus about the rent being paid.

**Agenda Item 6 - Update, Discussion and possible action regarding Nevada Virtual Academy improvement contract negotiations**

Director Gavin discussed to negotiate an amended charter contract for Nevada Virtual Academy.

**Member Guinasso moved to table this agenda item until later in the day when the public both have a copy of the contract. Member Snow seconded the motions. The motion carried unanimously.**

**Agenda Item 4 – Update, discussion and possible action regarding Nevada Connections Academy improvement plan, including but not limited to approval of proposed charter contract with terms previously approved by the Authority, discussion and possible action regarding staff recommendation on revocation of its written charter due to violation of NRS 388A.330 and issuance of direction to staff to issue Notice of Intent to Revoke the Written Charter.**

Director Gavin spoke about action taken regarding Nevada Connections Academy.

**Member Guinasso made a motion in accordance with the staff's recommendation, he moved to clarify that the language that's been summarized in the memo be included as an essential term of any agreement that we would reach with Nevada Connections. Melissa Mackedon seconded the motion. The motion carried unanimously.**

**Member Guinasso made a motion that pursuant to NRS 386.330 that the Authority direct staff to issue a Notice of Intent to revoke the written charter, Nevada Connections Academy, based on having a graduation rate for the preceding school year that is less than 60 percent. Member Mackedon seconded the motion. Member Luna opposed the motion. The rest of the board was Ayes.**

**Agenda Item 5 - Update, discussion and possible action regarding Beacon Academy improvement plan, including but not limited to approval of proposed charter contract with terms previously approved by the Authority, discussion and possible action regarding staff recommendation on alternative terms proposed by the school, or issuance of finding that the school is eligible for termination of its charter contract due to violation of NRS 388A.330 (e) and issuance of direction to staff to issue Notice of Intent to Terminate the Charter Contract.**

Director Gavin talked about action taken regarding Beacon Academy.

**Member Guinasso motioned pursuant to NRS 388A.330 and NAC 386.330 that the Authority Board direct staff to issue a Notice of Intent to Terminate the Charter Contract of Beacon Academy based on having a graduation rate for the preceding school year that is less than 60 percent. Member Mackedon seconded the motion. The motion carried 3 – 2. Member Snow and Member Luna voted Nay.**

**Agenda Item 9 - Quest Academy and Silver State Charter School receiver update**  
Josh Kern spoke about Quest Preparatory Academy and Silver State Charter School.

**Member Snow motioned to follow the Director's recommendation. Member Mackedon 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/For Possible Action)*

- Submission Timeline for Amendment Requests and Other School Materials for Board Consideration (Adam Johnson, Board Chair, SPCSA) *(Information/Discussion/For Possible Action)*
- Approval of SPCSA Public Information Request Fee Policy (Patrick Gavin, Executive Director, SPCSA) *(Information/Discussion/For Possible Action)*
- Approval of revisions to provisions of SPCSA Board and Staff Policies (Patrick Gavin, Executive Director, SPCSA) *(Information/Discussion/For Possible Action)*

**Member Snow motioned for approval of the consent agenda. Member Guinasso seconded the motion. The motion carried unanimously.**

**Agenda Item 8 – Executive Director’s Report**

Director Gavin spoke about the Executive Director’s Report

**Agenda Item 10- Update, discussion and possible action regarding the State Public Charter School Authority’s Strategic Plan**

Director Gavin spoke about the SPCSA’s Strategic Plan.

**Member Mackedon motioned to approve the proposed metric for goal number 4 of the strategic plan. Member Luna seconded the motion. The motion carried unanimously.**

**Agenda Item 2 – Approval of the August 26, 2016 Board Meeting Action Minutes**

**Member Mackedon moved to approve the minutes. Member Guinasso seconded the motion with the adjustments noted. The motion carried unanimously.**

**Agenda Item 11 – Financial Framework Report**

Duffy Chagoya spoke about the financial framework report.

**Agenda Item 12 – Public Comment**

None

**Chair Johnson adjourned the meeting at: 1:14 pm**

**EXHIBIT 2**

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

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**EXHIBIT 2**

BRIAN SANDOVAL  
*Governor*

STATE OF NEVADA

PATRICK GAVIN  
*Executive Director*



**STATE PUBLIC CHARTER SCHOOL AUTHORITY**

1749 North Stewart Street Suite 40  
Carson City, Nevada 89706-2543  
(775) 687 - 9174 · Fax: (775) 687 - 9113

September 30, 2016

Ms. Jafeth Sanchez, Board President  
Nevada Connections Academy  
555 Double Eagle Ct., #2000  
Reno, NV 89521

*VIA Electronic Mail and Certified Mail*  
*Return Receipt Requested*

Re: Notice of Intent to Revoke Written Charter

Dear Ms. Sanchez,

At the September 23, 2016 meeting of the State Public Charter School Authority Board, the Board received an update regarding the proposed charter contract with terms previously approved by the Authority. After update and discussion, the Board directed staff to issue this Notice of Intent to Revoke the Written Charter of Nevada Connections Academy ("Notice of Intent") based on having a graduation rate for the preceding school year that is less than sixty (60) percent. This Notice of Intent is issued pursuant to NRS 388A.330(2).

- 1) The deficiencies or reason upon which the action of the sponsor is based is Nevada Connections Academy's graduation rate for immediately preceding year being below sixty (60) percent as required by NRS 388A.330(1)(e). The graduating cohort of 2015 as defined by NAC 389.0246 is 35.63%.
- 2) Pursuant to NRS 388A.330(2)(b), the school has at least thirty (30) days within which to correct the deficiencies. The first day of this period is October 3, 2016. The date by which the school must have completed all efforts to correct these deficiencies is December 2, 2016.
- 3) At its December 16, 2016 meeting, the SPCSA Board will make a determination regarding whether Nevada Connections Academy has corrected the deficiencies. The Board will make this determination during a public hearing held pursuant to subsection 3 of NRS 388A.330.
- 4) At its December 16, 2016 meeting, the SPCSA Board will hold a public hearing to consider whether to reconstitute the governing body, or revoke the written charter. The SPCSA Board will make this determination during a public hearing held pursuant to subsection 3 of NRS 388A.330.
- 5) Any action revoking the written charter, if approved by the SPCSA Board, would be effective no sooner than the end of the 2016-17 academic year.

Jafeth Sanchez

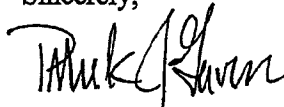
Page 2

September 30, 2016

- 6) Any action reconstituting the governing body, if approved by the SPCSA Board, could be effective immediately.

This letter serves as the school's formal Notice of Intent under NRS 388A.330(2). Nevada Connections Academy and the Authority staff must exchange any written or documentary evidence they wish to be considered by the Authority by no later than 5 pm Pacific Time on December 2, 2016. Nevada Connections Academy should submit its documentation to the Authority via Epicenter. Pursuant to applicable law, the school will have the opportunity during the statutorily mandated periods as stated herein to correct the issues state in this Notice of Intent which have prompted this action.

Sincerely,



Patrick J. Gavin  
Executive Director

**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**

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

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**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  
Amy 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 statue 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 then 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.

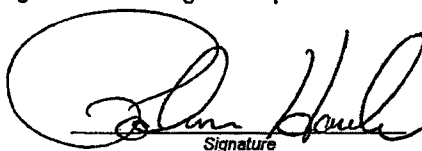
#### Request for Information

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



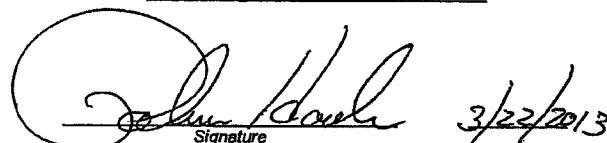
## Public Testimony

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@earlycollegenv.com](mailto:whawk@earlycollegenv.com).

  
Signature  
Dr. Wendt 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

**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 SB59 with the intent to ensure transparent and fair opportunities for charter schools to occupy district facilities. Available on Nells. 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.

Wed, Mar 20, 2013 2:01 PM

10. Eliminate performance framework from AB 205

Wed, Mar 20, 2013 1:50 PM

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.

Wed, Mar 20, 2013 1:26 PM

25 responses per page

answered question 11

skipped question 20

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

17. see comments	Wed, Mar 20, 2013 2:18 PM
18. I don't have any at this time.	Wed, Mar 20, 2013 2:04 PM
19. None	Wed, Mar 20, 2013 2:01 PM
20. Allow schools directory information	Wed, Mar 20, 2013 1:50 PM
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.	Wed, Mar 20, 2013 1:28 PM
22. -	Wed, Mar 20, 2013 1:26 PM
23. looks good	Wed, Mar 20, 2013 12:53 PM
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.	Wed, Mar 20, 2013 12:31 PM

25 responses per page

answered question	24
skipped question	7

7. Comments

Response	Count
answered question	11
skipped question	20

25 responses per page

answered question	11
skipped question	20

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

6. 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...	YES	NO	UNSURE	Rating Count
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 attendance, percentage of pupils who enroll, financial condition and sustainability, rates of graduation, preparation of for post-secondary education, career, and college readiness?	96.8% (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 regarding 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**

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

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**EXHIBIT 5**

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

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 DAVID & CARLY HELD, individually )  
and on behalf of their minor child N.H.; )  
10 VERONICA BERRY, individually and on )  
behalf of her minor child J.B.; RED AND )  
11 SHEILA FLORES, individually and on )  
behalf of their minor child C.F.; )  
12 JAOUAD AND NAIMI BENJELLOUN, )  
13 individually and on behalf of their minor )  
children L.K.1 and L.K.2.; NEVADA )  
14 CONNECTIONS ACADEMY, )  
15 Plaintiff, )  
16 vs. )

CASE NO. 16 OC 002491 B  
DEPT. NO. I

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

17 STATE OF NEVADA, ex rel., STATE  
18 PUBLIC CHARTER SCHOOL  
AUTHORITY, a political subdivision of  
19 the STATE OF NEVADA, and PATRICK  
GAVIN, in his official capacity as  
20 Executive Director of the STATE  
PUBLIC CHARTER SCHOOL  
21 AUTHORITY,  
22 Respondents.

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

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

1           2.     Attached to the Motion as Exhibit 1 is a true and correct copy of the minutes  
2 from the Authority Board meeting of September 23, 2016.


3           3.     Attached to the Opposition as Exhibit 2 is a true and correct copy of the  
4 Notice of Intent to Revoke a Written Charter sent to the Board President of Nevada  
5 Connections Academy on September 30, 2016.

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

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

11           DATED this 28th day of November, 2016.

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

12  
13  
14           By:   
15           GREGORY D. OTT  
16           Deputy Attorney General  
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