

BRIEF EXHIBIT B

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1 **BEFORE THE STATE PUBLIC CHARTER SCHOOL AUTHORITY**

2 **STATE OF NEVADA**

3
4 **VIDEOCONFERENCED PUBLIC HEARING**

5 **VOLUME II**

6 **THURSDAY, MAY 25, 2017**

7 **AGENDA ITEM NOS. 2 AND 3**

8 **RENO AND LAS VEGAS, NEVADA**

9
10
11 **THE BOARD:**

12 **JASON GUINASSO, Acting Chair (In Las Vegas)**
13 **ADAM JOHNSON, Chair/Member (In Las Vegas)**
14 **MELISSA MACKEDON, Vice Chair (In Las Vegas)**
15 **PATRICK GAVIN, Executive Director (In Las Vegas)**
16 **STAVAN CORBETT, Member (In Las Vegas)**
17 **NORA LUNA, Member (In Las Vegas)**
18 **JACOB SNOW, Member (In Las Vegas)**
19 **DAVID GARDNER, Member (In Las Vegas)**

20
21 **FOR THE BOARD:**

22 **GREG OTT, Deputy Attorney General (In Las Vegas)**
23 **ROBERT WHITNEY, Deputy Attorney General (In Las Vegas)**
24 **DANNY PELTIER, Management Analyst I (In Reno)**
 TANYA OSBORNE, Administrative Assistant III (In Reno)

FOR NEVADA CONNECTIONS ACADEMY:

LAURA GRANIER, ESQ. (In Las Vegas)

Reported by: **DENISE HINXMAN, CCR #234**
 STEPHANI L. LODER, CCR #862

1 MS. GRANIER: Yes, it is relevant. It reflects
2 the dialogue between the parties and the school's attempt
3 to collaborate as is required under Nevada law, with the
4 authorizer, regarding the upcoming applicability of the
5 very statute that is at issue today.

6 ACTING CHAIR GUINASSO: Okay. Notwithstanding
7 the objection, I'd like to move to accept what's been
8 marked as Exhibit H.

9 Can I get a second?

10 MEMBER JOHNSON: Member Johnson, second.

11 ACTING CHAIR GUINASSO: All those in favor?

12 ALL: Aye.

13 ACTING CHAIR GUINASSO: Any opposed?

14 (No audible response.)

15 ACTING CHAIR GUINASSO: Okay. Motion carries.

16 (Motion to admit Exhibit No. H made,
17 seconded, and unanimously carried.)

18 ACTING CHAIR GUINASSO: Now, I'm marking as
19 Exhibit I what looks to be a pleading that says:
20 "Declaration of Jafeth Sanchez in Support of Motion for
21 Temporary Restraining Order and Preliminary Injunction."

22 Is that right? That would be under tab 27 in
23 Ms. Granier's binder.

24 MS. GRANIER: Yes, that's correct.

1 ACTING CHAIR GUINASSO: All right. Any
2 objection, Mr. Ott?

3 MR. OTT: No, no objection.

4 ACTING CHAIR GUINASSO: Okay. Hearing no
5 objection, I'd like to admit -- move to admit what's been
6 marked as Exhibit I.

7 MEMBER JOHNSON: Member Johnson, second.

8 ACTING CHAIR GUINASSO: All those in favor?

9 ALL: Aye.

10 ACTING CHAIR GUINASSO: Any opposed?

11 (No audible response.)

12 (Motion to admit Exhibit No. I made,
13 seconded, and unanimously carried.)

14 ACTING CHAIR GUINASSO: Okay. I'm marking as
15 Exhibit J a document that is dated November 30th, 2016,
16 and it says it's the Transcript of Proceedings Regarding
17 Plaintiff's Motion for Temporary Restraining
18 Order/Preliminary Injunction.

19 I'm not sure what tab number that is in your
20 binder, Ms. Granier.

21 Tab No. 15.

22 MS. GRANIER: That's not what I have for tab 15.
23 Yes, that is 25.

24 ACTING CHAIR GUINASSO: 25. Okay. I apologize.

1 I had the wrong one as well. So it's your tab 25.

2 So I'm marking that as J. Any objection,
3 Mr. Ott?

4 MR. OTT: Yes. Relevance. The transcript of a
5 judge's comments are not relevant; the order is.

6 ACTING CHAIR GUINASSO: Ms. Granier?

7 MS. GRANIER: I think the transcripts of the
8 judge's comments are relevant. They were made in open
9 court and they are material to the issues at the heart of
10 this proceedings, the closure, and the contract
11 negotiations and the graduation rate.

12 ACTING CHAIR GUINASSO: Thank you.

13 Notwithstanding the objection that was made, I'd like to
14 move to accept what's been marked as Exhibit J.

15 MEMBER JOHNSON: Member Johnson, second.

16 ACTING CHAIR GUINASSO: All those in favor?

17 ALL: Aye.

18 ACTING CHAIR GUINASSO: Any opposed?

19 (No audible response.)

20 ACTING CHAIR GUINASSO: Motion carries.

21 (Motion to admit Exhibit No. J made,
22 seconded, and unanimously carried.)

23 ACTING CHAIR GUINASSO: I'm marking as Exhibit K
24 a document that looks to be the September 28th, 2015

1 After significant deliberation, testimony
2 consideration, the Legislature very intentionally changed
3 that "shall" to "may."

4 And it is very clear on the record, based in part
5 on Director Gavin's testimony that you, of course, would
6 not just look at a single data point. You would consider
7 all compelling evidence relative to that data point.

8 But the Legislature very intentionally gave you
9 the discretion to, yes, take a look if that single data
10 point is below the 60 percent for a high school. But to
11 consider all of the compelling evidence.

12 So what you will hear from us is not that we're
13 telling you how to redefine graduation rate the way the
14 NDE calculates it for purposes of federal reporting.

15 The Nevada Legislature very clearly could have
16 adopted that federal definition and incorporate it into
17 that statute. It did not because the point was they never
18 intended it to be used the way it is being used, to
19 attempt to shut down a school serving over 3,300 Nevada
20 students across our state in grades K through 12, which
21 raises another legal problem with this proceeding looking
22 to close a grade K through 12 school when the statutory
23 language is clear that as a trigger for possible closure
24 of a high school.

1 We are not a high school. We are a K through 12
2 school. And what you will hear is that after the
3 Authority staff said, well, you can sever your charter and
4 we'll just close your high school, we proposed the concept
5 of a school within a school.

6 And you'll hear in the second half of this
7 proceeding if we get there why we believe that was an
8 appropriate cure responsive to your staff's request.

9 You will hear that over and over and over again
10 this school has taken a careful look at this and responded
11 to every request your staff and this Authority board has
12 made to address this issue. The school has worked
13 diligently and it is improving.

14 Yes, we have cured the deficiency. We came up
15 with a highly praised graduation rate improvement plan
16 that we presented to this board in May.

17 And we have the transcript of that proceeding
18 where some of the then-board members praised it, including
19 Member McCord, for its transparency, for its very clear
20 action to be taken.

21 Director Gavin gave us comments and reviewed that
22 document and he had no criticism of it other than he
23 wanted to see benchmarks.

24 So you are going to consider today closing a K

1 transition to a charter contract as a condition of
2 awarding an amendment to a charter.

3 And it has been the practice of the board, of the
4 Authority, since July of 2015, to have that be a
5 requirement for all member requests.

6 Q The charter agreement held by NCA is Exhibit 5,
7 staff Exhibit 7, I'm sorry. Can you explain if this is a
8 written charter or charter contract?

9 A The document is a written charter.

10 Q You've heard some testimony and seen some
11 allegations regarding the SPCSA performance framework.
12 Are you familiar with that?

13 A I am familiar with it. It was adopted in June of
14 2013 by the Authority pursuant to its authority under
15 Assembly Bill 205.

16 Q Is it incorporated into NCA's written charter?

17 A It is not.

18 Q Why not?

19 A NCA operates under a written charter. While
20 we've historically provided schools with information
21 regarding how they perform under that framework so that
22 they will have a sense of where they are particularly as
23 they lead up to renewal when we've had updated data. It
24 does -- as a matter of law, it does not apply to schools

1 that are under a written charter.

2 Q Is it an obligation that it be incorporated into
3 charter contract?

4 A It's an explicit requirement of the statute that
5 the written charter be incorporated into the charter
6 contract.

7 Q Does the SPCSA have a form charter contract
8 publicly available?

9 A Yes.

10 Q Where is it located?

11 A It's been posted on our website since 2013 and
12 has only seen minor revisions, most notably some changes
13 related to, statutory change regarding gender-identity
14 discrimination that was incorporated in as a result of
15 recent statutory changes.

16 Q Moving on to notices of closure generally. When
17 the SPCSA issues a notice pursuant to NRS 38A.330 [sic], a
18 school may have failed to meet one of the standards
19 articulated in that section, does staff of the SPCSA
20 generate proposed corrections to the deficiency for the
21 school?

22 A We do not.

23 Q What role does staff have in the generation of
24 corrections to the deficiency?

1 A We do not generate corrections.

2 Q Does staff generally provide feedback on what its
3 recommendation would be on school's proposed corrections?

4 A We have certainly done so in the past when
5 schools have come forward with proposed cures.

6 Q With regard to the NCA September 30, 2016,
7 notice, during the period indicated on the notice from
8 September 30 to December 2, 2016, did you receive any
9 requests from NCA to give you recommendations regarding
10 proposed cures?

11 A I did.

12 Q What was that?

13 A I believe we were asked to -- we spoke with them
14 on the phone at least three times, to my recollection,
15 regarding prospective cures.

16 Q This is with regard to the September 30, 2016
17 notice?

18 A My apologies. I believe we received a very
19 late-in-the-day notice approximately two days prior to the
20 final due date for documents. I was out of state at the
21 time. And as -- what I recall concerned me the most was
22 there was no mechanism by which the school could actually
23 adopt a cure because there was no meeting scheduled for
24 that school's governing body when they could have actually

1 taken action prior to the due date.

2 Q NCA makes reference in some of its pleadings to a
3 November '14 cure proposal. Do you know what they're
4 referring to there?

5 A I must confess I don't recall that exact one.
6 There have been a lot of cure proposals.

7 Q Well, at any time did you receive a litigation
8 settlement marked confidential pursuant to NRS 48.105 from
9 NCA during that period?

10 A Yes, we did receive such a offer of litigation
11 settlement.

12 Q Did you consider that a cure proposal at the time
13 you received it?

14 A I did not.

15 Q Did you --

16 A We had been -- the school had filed litigation
17 against us in August and then followed up with additional
18 litigation about a month later. And there was ongoing
19 court activity at that point in time. So I viewed it as
20 an attempt to settle those legal disputes.

21 Q So with regard to -- putting that aside, let's
22 talk about the other item that you mentioned, which was a
23 request to discuss. How far into the time to cure the
24 deficiencies was this request received?

1 concerns we would have with the appropriateness or
2 applicability of that cure.

3 Q When you are providing your recommendation, what
4 do you take into account when you are formulating that
5 recommendation?

6 A So, I think one thing to be very clear about is
7 we were subject to ongoing litigation in that area.

8 And I felt it was important to be conservative
9 with regard to what information, what was stated from my
10 side, because it had been my experience that discussion --
11 that information from such discussions was being used in
12 various kinds of filings related to the Authority. So
13 there's that.

14 Generally speaking, the approach that I have
15 taken is communicating what potential legal pitfalls or
16 whether or not the cure is potentially permissible. And
17 emphasizing, I think, is always the importance that we
18 focus on outcomes versus inputs.

19 Q Do you consider whether the cure would be
20 effective to turn the school around?

21 MS. GRANIER: Again, it's leading.

22 ACTING CHAIR GUINASSO: I'm going to allow the
23 question. Go ahead and ask.

24 THE WITNESS: I do, yes.

1 BY MR. OTT:

2 Q Do you consider whether the cure would be
3 acceptable to the board?

4 A I absolutely do.

5 Q During those March telephone conferences, did you
6 propose any cures of your own?

7 A No.

8 Q Why not?

9 A As I believe I stated earlier, we were in --
10 there's a litigation that is technically, I guess, still
11 ongoing. So that was certainly an area of concern. And
12 more broadly is as I think we've discussed previously,
13 it's not the role of the Authority staff to prescribe
14 cures to a school.

15 Q So with regard to NCA's proposed corrections to
16 the September 30 notice, did the SPCSA receive a summary
17 of the corrective actions proposed by NCA?

18 A We did receive a summary of the corrective
19 actions, yes.

20 Q And what about a response to the February 10,
21 2017 notice?

22 A As part of the -- as the February -- sorry -- as
23 part of that, basically everything we received was
24 essentially during those telephone calls, there were a

1 So that one would give the school significantly
2 more flexibility in terms of when it replaces members of
3 its governing body.

4 Q And just to be clear, the one-year timeframe is
5 contained in the March 24, 2017 letter, correct?

6 A That is correct.

7 Q Let's discuss the more aggressive approach first,
8 the September 30, 2016 letter with replacement every six
9 months, complete reconstitution by June 30, 2019.

10 In your opinion as executive director, is that
11 reconstitution plan sufficient to correct the
12 deficiencies?

13 A It is entirely inadequate.

14 Q Why is it insufficient?

15 A Reconstitution, that is to say, a restart of the
16 school's governing body only works if it is a wholesale
17 change.

18 The same individuals who have perpetuated the
19 woeful underperformance of this school should not be in a
20 position to choose their successors.

21 Q What about the March 24, 2017 proposal of a new
22 board member once a year?

23 A That is even less adequate, because it simply
24 prolongs the period of time when the individuals who have

1 failed to oversee the school and ensure its success remain
2 in power.

3 Q Sorry. Repeat that.

4 A Remain in power.

5 Q In your time as executive director of the SPCSA,
6 have you had cause to recommend approval of a school plan
7 involving reconstitution of a board?

8 A I have.

9 Q What made that proposal different from this one?

10 A In that proposal, the board agreed to step aside
11 and allow the reconstitution to occur almost immediately
12 in the event that a qualified governing body could not be
13 found in time.

14 There was a provision for a very short-term
15 receivership with the sole purpose of recruiting a new
16 governing body, and ensuring that the financial and
17 organizational store was minded in the absence of a full
18 board.

19 Q Was there any provision about what would happen
20 if reconstitution was unsuccessful in that plan?

21 A In the event that reconstitution is unsuccessful,
22 the school would close.

23 That is also consistent with the statute which
24 says that a school's governing body can only be

1 reconstituted once.

2 Q Is there evidence supporting reconstitution of a
3 governing body as an effective means to significantly
4 increase graduation rates?

5 A Yes, there's a growing body of evidence that
6 charter school restart, primarily through the replacement
7 of the governance and the new governing body choosing if
8 it wishes to select new management or reshuffle folks as
9 it feels appropriate, is a very strong, and frankly one of
10 the most evidence-based forms of turnaround, one of the
11 few areas, for example, in the school improvement research
12 where we see any material difference or sustained material
13 difference in pupil outcomes.

14 The precedence for this includes a number of math
15 charter school restarts in the Philadelphia area. The
16 restart of Harlem Prep in New York City comes to mind.

17 And then also Trenton, New Jersey is another one.
18 There's a fair body of data.

19 Q What do the national results show as essential
20 elements of reconstitution plans?

21 A The wholesale replacement of the governance
22 followed or in parallel with the replacement of
23 management, or the reorganization of management.

24 It could just be the right people are just in the

1 wrong places on the bus or that the governing body has
2 chosen to direct the school's resources and activities in
3 unproductive directions.

4 Q Are those elements present in either of the
5 reconstitution plans presented by NCA?

6 A They are not.

7 Q Has the SPCSA adopted any regulations regarding
8 the reconstitution at this time?

9 A We have not.

10 Q Moving on to the academic interventions that are
11 contained in the deficiency correction letters.

12 NCA discusses the progress of academic
13 intervention in both the December 2 and March 24th
14 letters.

15 Have you had a chance to review those progress
16 reports?

17 A I have.

18 Q Are the academic interventions as stated therein
19 sufficient to correct the deficiencies?

20 A These are interim programmatic assessments. It
21 is impossible to know how predictive they are, of whether
22 a student will pass the end of course, the HSPE, or will
23 graduate on time or even within a fifth-year.

24 Q Is the progress or the promise of any or all of

1 these academic interventions listed in the March 24, 2017
2 or the December 2, 2016 letters sufficient to correct the
3 deficiencies, in your opinion?

4 A The information that is provided here is
5 insufficient for one to make such a determination.

6 Q How many charters does NCA have with the SPCSA?

7 A One.

8 Q What grades are covered by that charter school?

9 A K through 12.

10 Q Does the SPCSA consider NCA a high school?

11 A We consider it a high school because it serves
12 students from grades nine through 12.

13 Q Does the SPCSA also consider it a middle school?

14 A Yes.

15 Q Has the Authority ever suggested that the school
16 consider bifurcating its charter as alleged in the
17 December 2 and March 27 letters?

18 A I'm not aware I've ever suggested such a thing,
19 no. I can't speak to what other parties may have said.

20 Q Do you know what those references are to, the
21 references to bifurcating a charter?

22 A Yes, I believe you're talking about the concept
23 of the school splitting its high school out from -- so
24 having one charter for the K through eight and one charter

1 for the nine through 12, have that bifurcation.

2 Q Yes.

3 A And I believe we brought feedback back to the
4 school why we felt that would be inadequate.

5 Q Has the school sponsored by the SPCSA ever
6 bifurcated its charter?

7 A No.

8 Q NCA has proposed a school within a school in its
9 letters, which proposes would serve all students who
10 enrolled at NCA credit-deficient and those students would
11 have separate codes be included in that school's
12 graduation rate.

13 Would this proposal correct the deficient
14 graduation rate at NCA?

15 A No, it would simply segregate out those students
16 into a separate program of some kind.

17 Q Has the NCA filed any paperwork necessary to
18 create a new charter school necessary for this proposal?

19 A It has not.

20 Q Has it demonstrated any success in dealing with
21 these credit-deficient students?

22 A There's no evidence to support that
23 determination.

24 Q Are there any other virtual schools currently

1 attempting to serve credit-deficient students?

2 A Yes.

3 Q What actions did that school take to serve that
4 population of students?

5 A That school amended its charter, number one, to
6 limit its enrollment policy to students who met the
7 criteria for enrollment in an alternate education.

8 ACTING CHAIR GUINASSO: Let me interrupt for a
9 second, because we're talking about "that school." And I
10 don't know what "that school" is.

11 BY MR. OTT:

12 Q Which school are you speaking of?

13 A I'm speaking with regard to Beacon Academy of
14 Nevada.

15 Q Do you want me to restate that question?

16 A Sure.

17 Q What actions did Beacon Academy do to serve that
18 population of students?

19 A Beacon Academy, first of all, submitted a charter
20 amendment to serve -- to limit its enrollment to those
21 students who were credit-deficient as defined under SB 460
22 and Nevada regulation which is to say two or more years
23 behind academically in terms of credit accumulation.

24 They also -- there were a couple of other

1 subcategories of students, most notably adjudicated youth,
2 students who are on individualized education plans and
3 students who were adjudged in need of supervision or
4 suspended or expelled.

5 So they included all those categories of eligible
6 students in their new revised mission-specific enrollment
7 policy.

8 They also agreed to additional contractual
9 elements as part of that transition.

10 Q Assuming for a moment that NCA was able to
11 overcome all the hurdles to opening a new school to make
12 this school-within-a-school concept possible, when is the
13 earliest that schools who submit applications for new
14 charters would be able to open?

15 A A school which submits -- so the deadline for
16 Notices of Intent for the upcoming charter applications
17 was April 15th, if I'm recalling correctly.

18 The next round of applications of Notice of
19 Intent will be October 15th, which would allow for a
20 January 15th application due date.

21 The Authority typically takes approximately six
22 months to fully review and vet an application, which would
23 mean a decision would not happen until June or July, and
24 the effective date for such a charter would be one year

1 out to provide for sufficient time for the school to stand
2 up.

3 Q So you mentioned a couple of months without
4 years.

5 A Sure. So let me just do the math here for a
6 second. So that would mean the earliest such a school
7 could open, based on the current and existing regulations,
8 is 2019. Under the charter.

9 Q Again, assuming that there was -- that NCA was
10 able to open this ALT Ed-specific school within a school,
11 would NCA have any ability to restrict students from
12 attending NCA's general population school based on this
13 other ALT Ed school that it opened?

14 A Not under existing law.

15 ACTING CHAIR GUINASSO: I'm going to interject
16 for just a second. I'm going to give you all the
17 ten-minute warning.

18 I think we have to be out of here at 5:00. Is
19 that right? Is this venue only open until 5:00. So we
20 have to conclude at 5:00. So how much more questioning do
21 you think you have?

22 MR. OTT: I could probably almost get done or
23 close to it.

24 ACTING CHAIR GUINASSO: The plan is to finish

1 Q So you can take a look at that to look at your
2 own words if you want. But I would like you to explain
3 what you meant by "compelling evidence" that you would
4 find persuasive to allow you to recommend that a school
5 with a graduation rate below 60 percent to remain open.

6 A So to be clear, the language was "compelling
7 explanation" not "compelling evidence." So with regard to
8 compelling explanations, the kinds of matters that came to
9 mind were flooding, for example, or some other natural
10 disaster that might result in a school having a
11 significant disruption. Fire, those kinds of things,
12 where students might be significantly displaced. So that
13 would be the kind of example that would come to mind.

14 A A momentary aberration, so the school has
15 historically had a very high rate and then there's a
16 precipitous drop for some reason. That would certainly be
17 something to look at more.

18 A Additionally, on the positive side, I would say a
19 school that's had -- that may have a 60 percent rate -- or
20 I'm sorry, well below 60 percent rate for its adjusted --
21 four-year adjusted cohort but consistently were showing
22 significant progress well above the 60 percent number for
23 students at a fifth-year level.

24 A So that would demonstrate that students may be

1 STATE OF NEVADA)
2) ss.
3 COUNTY OF WASHOE)

4 We, DENISE HINXMAN and STEPHANI L. LODER,
5 Certified Court Reporters in and for the County of Washoe,
6 State of Nevada, do hereby certify that on Thursday,
7 May 25, 2017, at the Grand Sierra Hotel, in the Nevada
8 Room, located at 2500 East Second Street, Reno, Nevada, we
9 reported the videoconferenced public hearing in the matter
10 entitled herein;

11 That the foregoing transcript, consisting of
12 pages 1 through 200, inclusive, is a true and correct
13 transcript of the stenographic notes taken by us in the
14 above-captioned matter to the best of our knowledge,
15 skill, and ability.

16 As we were not present in the room with all of
17 the participants, the appearances on the cover page are
18 from our understanding of who was present via
19 videoconference and telephone during the proceeding, and
20 that speaker identification was made to the best of our
21 ability through voice recognition;

22 We further certify that we are not attorneys or
23 counsel for any of the parties, nor relatives or employees
24 of any attorney or counsel connected with the action, nor

1 financially interested in the action.

2 Dated at Reno, Nevada this 16th day of June,
3 2017.

4
5 /s/ Denise Hinxman
6 Denise Hinxman, CCR #234

7 /s/ Stephani L. Loder
8 Stephani L. Loder, CCR #862

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