



Via Electronic Mail: [rebecca.feiden@spsca.nv.gov](mailto:rebecca.feiden@spsca.nv.gov)

January 27, 2020

Rebecca Feiden  
Executive Director  
4800 W. Dewey Dr.,  
Las Vegas, NV 89118

Dear Director Feiden,

The school is in receipt of your notice of intention to recommend that NCA's application for renewal of its charter for grades 6-12 be denied which we understand would result in a total closure of NCA at the end of this school year. Your letter stated that "any response submitted by NCA must be received by January 27, 2020." Therefore, in deference to your requirement in your letter, we are submitting this letter but do want to request, on behalf of the governing board and the school, that the Authority postpone its consideration of the NCA application for renewal to allow our governing body to prepare a substantive response to your recommendation memo received on Friday, January 24, 2020 at 9:09pm including supporting affidavits, exhibits, documentary evidence and a written legal argument, as permitted by NAC 388.415.

We believe there have been some gaps in understanding with the change in personnel at the Authority since we agreed to the "cure" document and current charter contract in November 2017 and, based on your letter and recent conversations, also believe there has been some misunderstanding in discussions you have referenced that occurred over the last ten months. While you and your staff did meet with us a few times during that time period, as you know, until September we did not have the data for the high school to discuss performance ratings. Thus, we understood the discussions to primarily focus on elementary and middle school and, also understood that if the school elected not to seek renewal of the elementary school that the middle school and the high school renewal would be favorably considered, especially given the school's having met the contractually agreed upon performance benchmarks for the high school under the cure and existing charter contract.

To provide context for the accountability numbers you reference, it is important to consider the population the school has served historically (and presently) and the demand for NCA in the state of Nevada. Among the high schools in your portfolio, NCA has among the highest mobility. More than half of the high schools in your district have less than state average mobility and one third have mobility rates less than 10% (vs. NCA's 56%). In other words, we believe that it's important for you to acknowledge and carefully consider how NCA's high school demographics differ from those in your portfolio. Unfortunately, your memo and letter recommending elimination of NCA as a school choice for Nevada families does not do that.

We also ask that you consider that the school has been subject to repeated moving goal posts during its history. While you refer to thirteen years of the school's performance, it is important to note that Dr. Canavero who recommended the first renewal of the school's charter, which renewal was unanimously approved by the authorizer, noted the graduation rate but also recognized that NCA serves a large population of credit deficient students. We know from experience NCA is sometimes and perhaps often times a last stop for these students who have not found success in the traditional public schools or even other charter schools but they're still wanting to make that final effort and try to complete their high school education, earning their diploma. We have always felt strongly that we want to help all students, including these students, and the reality is that enrolling those students creates an immediate and lasting impact on

the accountability numbers – both the graduation rate and the NSPF rating. We understood we were serving an important need by enrolling these credit deficient students and helping them further their education and achieve obtaining a high school diploma. It should also be noted in the past two years the school has made significant strides with successfully serving this very population. The percentage of students that were credit deficient upon initial enrollment at NCA and then graduated on time doubled from 2017 to 2018 and increased again in 2019.

In 2016, with a new executive director at the SPSCA, the high school graduation rate became the most important factor to the school's accountability in the eyes of the SPSCA. With no prior notice we were put on a public agenda for issuance of a notice of closure because of our graduation rate. After many months of hard but fruitful work with the SPSCA, the NCA and the SPSCA agreed to the cure and existing charter contract, making clear that the most important accountability metric for the high school was the graduation rate and meeting the agreed upon benchmarks would be the touchstone for renewal.

The cure and existing charter contract recognized this and gave the school and its families and Nevada the chance to keep this important school choice available by setting extremely high but reasonably achievable benchmarks for improvement of the high school graduation rate. While that was a starting point for us to continue operations, we also understood that our failure or success in achieving those ambitious benchmarks would be the material consideration for renewal of our high school. We are extremely proud of our school team's success in not only meeting but exceeding the benchmarks. And, we note that they are a starting point for us and we are on a trajectory and have a plan to get above 80% in the next two years and, during that time, now that we are just beginning to gain points toward our NSPF star rating for that graduation rate (out of the total of 30 related to graduation rate we were receiving a zero even though we met the contractually agreed upon benchmarks), we are also on track to get the high school to a two star rating in the shorter term and three stars in the next three years.<sup>1</sup>

Notwithstanding that we met the contractually agreed upon high school performance graduation benchmarks, your letter makes it clear that NCA's achievement of those benchmarks now is no longer a material factor in the SPSCA's renewal decision according to your recommendation. Again, with no opportunity to adjust the school's focus to a changing priority or agency policy, you now identify the star rating of the school as more important than the high school's proven success in achieving the graduation rate improvement we agreed to under the cure and existing charter, even though a one star rating was what we all knew would result for the high school during the first two years of the cure given agreed to targets. We must respectfully disagree with your assertion that NCA has failed to make substantial school-wide improvements. To the contrary, we prepared a comprehensive graduation rate improvement plan and successfully implemented that plan as reflected in the 20% increase in our graduation rate over a two-year period and continued upward trend of the graduation rate.

You appear to be seeking to penalize NCA for achieving a 1-star rating over the past 2 years, even though the parties (including this Authority) who negotiated the cure and current charter contract specifically negotiated to (1) reward NCA for meeting the agreed to graduate rate targets and (2) to give material consideration toward NCA's renewal if it accomplished the very things that resulted in its 1-star rating. In calculating a school's NSPF star rating, the school's graduation rate comprises 30 of the possible 100 points

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<sup>1</sup> In addition, although it is not the NDE's method of calculating graduation rate, it is relevant under the totality of the evidence, that you also consider relative to our performance with our students that with respect to students who stay with NCA from 9th grade forward, our graduation rate for 2017 was 95.56%, for 2018 was 97.01% and for 2019 was 98.46%.

that are available. And importantly, of the 30 available points, zero points are earned unless the school achieves a graduation rate of at least 67%. We all agreed that if NCA succeeded that would not occur until the second school year under the cure. Moreover, there are other elements of the NSPF that are inextricably intertwined with a school's graduation rate. For example, the *College and Career Readiness Indicator* logically is impacted by a school's graduation rate as it follows that graduating from high school is a strong prerequisite toward college or a career. Also, the *Academic Achievement Indicator*, based almost exclusively on the ACT which was only recently included as a requirement for graduation, is inextricably linked to a school's graduation rate. With only 20% of NCA's high school students indicating a desire to pursue post-graduate education, NCA students who are struggling just to graduate on time, have little incentive to make ACT performance a priority.<sup>2</sup> The College and Career Readiness Indicator of the NSPF comprises 25 available points, so a school with a graduation rate below 67% automatically starts with an over 50 point deficit. For the *Academic Achievement Indicator* at the high school level, the NSPF is essentially holding NCA students accountable for performance on a test which, for the vast majority of NCA's students, does not have any bearing on their future plans. The unfairness of this sudden change in position by the SPSCA is compounded by the fact that the graduation rate lags one-year behind the rest of the NSPF points, making it impossible for NCA to obtain any benefit from the impressive improvement it has made in its graduation rate. For example, the graduation rate for a school in school year '17/'18, which is not made official until the Fall of 2018, is part of the school's NSPF calculation for school year '18/'19, which is not made official until the Fall of 2019.

Understanding that achieving anything other than a 1-star rating was a virtual impossibility without 55 of the maximum 100 points even being available with a graduation rate below 67%, the parties nevertheless negotiated a contract that not only set benchmarks below the 67% graduation rate threshold, but in fact contained language that rewarded NCA for meeting such benchmarks. Specifically, at section 8.1.5.1 of the Cure Agreement, the parties agreed that "[g]raduation rate benchmarks for the Charter School Shall be as follows:

Academic Year Cohort 2017-18: 49%

Academic Year Cohort 2018-19: 60%

Achievement of or failure to achieve these academic year benchmarks for 2017-18 and 2018-19 will be a material factor for consideration relevant in any renewal proceedings." (Emphasis added).

As a result of these negotiated terms, the parties agreed that NCA could have a graduation rate of 49% for school year '17/'18, which would become part of the NSPF calculation for school year '18/'19, and also that NCA could have a graduation rate of 60% for school year '18/'19, which would become part of the NSPF calculation for school year '19/'20. Anyone familiar with the NSPF methodology knew that such benchmarks would therefore result in a 1-star rating for school years '18/'19 and '19/'20. But not only were the parties to that contract content with that, they agreed to reward NCA by making the achievement of these graduation benchmarks "a material factor for consideration relevant in any renewal proceedings." This was in part a recognition of the population NCA was servicing who, in significant numbers were and continue to be credit deficient when they enroll at NCA (but are still in need and entitled to enroll in their

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<sup>2</sup> Our plan to continue with improvement and reach two stars and very soon three stars does include tools for improved performance on the ACT as well as CTE for students who are not college bound.

school of choice – based on their belief they can be successful).<sup>3</sup> While NAC 388A.415(10) provides that the Authority “will not give any one factor more weight than the academic performance of pupils,” the parties contracted to give one element of that academic performance, the graduation rate, the greatest importance, since there is no other factor within the statutory framework for renewal of a charter school that rises to the level of “material”; and as such, meeting or exceeding these benchmarks was to be, as agreed by the parties, the most important factor relevant to renewal.

The Cure Agreement was a negotiated contract that allowed NCA 2 full school years to demonstrate its improvement, even though it would be achieving a 1-star rating by meeting the benchmarks as a result of those two years. Respectfully, your recommendation to deny renewal of the high school with references to the overall rating relative to the other high schools within your portfolio and across Nevada appear inconsistent with the Authority’s contractual commitment made to NCA. It is also relevant to consider that in recent years, next to Clark and Washoe counties, the Charter School District has sent the highest number of credit deficient students to NCA. We have successfully implemented our graduation rate improvement plan and continue with our efforts to even further improve our service to these students with pilots in credit sufficiency for 9th and additional attention to credit deficient 12th graders.

The Authority representatives who entered into our current contract knew that during the term of the contract, NCA would be generating NSPF scores and graduation rates that would otherwise entitle the Authority to commence termination proceedings, but the parties agreed to allow NCA’s high school to remain open as long as it met the graduation benchmarks and to show its success and the success of its students and the Authority through meeting the performance metrics agreed to for the high school through the graduation rate improvement benchmarks.

We ask for a balanced presentation of information to your board members. In addition to the couple of examples we provide herein, we notice that your letter and memo report to them indicate that our middle school star rating went from 3 to 1 to 2 stars but without any note to them that the one star rating resulted from a participation penalty that was calculated differently the following year and, but for that penalty, the middle school would have received a 2 star rating that year. While we are striving to be 3 and back to a 4 star middle school, it’s important that the board consider all the details, including student population and facts such as this that do not reflect on the substantive learning going on at the school.

We look forward to the opportunity to fully respond to your letter with supporting affidavits, exhibits and documentary evidence and a written legal argument. Please let us know our deadline for providing such information. Understanding the hearing is set for this Friday, January 31, 2020, we will do our best to submit everything prior to that but do believe to fully and fairly prepare that response will require delay to the Authority’s next board meeting.

Sincerely,



Dr. Scott Harrington, BCBA-D, LBA

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<sup>3</sup> Notably, our mobility rate at NCA is 2.5 times the state average. In some years, our middle school student population includes on the order of 86% of students having attended between 2 and 8 or more schools before enrolling at NCA.



**Chris McBride, Superintendent and Ph.D.**

**cc: Ryan Herrick via e-mail ([rherrick@spcsa.nv.gov](mailto:rherrick@spcsa.nv.gov))**

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