

**EXHIBIT 4**

**EXHIBIT 4**

5/25/17 Hearing before the SPCSA regarding Notice of Intent to Revoke Written Charter for Nevada Connections Academy

- (1) Whether, for the 2016 graduating cohort at NCA as defined by NAC 389.0246, the NCA graduation rate was less than 60%.
  - (2) Whether Nevada Connections Academy corrected or proposed corrections to this deficiency.
  - (3) Whether the corrections or proposed corrections are sufficient to correct the deficiency.
- Secondly, if the Board finds that Nevada Connections Academy had a graduation rate less than 60% and that it has not corrected this deficiency, then the Authority will have the burden to prove by a preponderance of the evidence whether it is lawful and appropriate to either reconstitute the governing body of Nevada Connections Academy or to revoke Nevada Connection Academy's written charter.

**Is there any objection to the issues as I have stated them and/or any other issues that either of you believe this Board must address before we move forward with today's hearing?**

- Possible other issues identified from reading the briefs and the record before the District Court
- OML complaints = THE AUTHORITY DOES NOT HAVE JURISDICTION TO DECIDE WHETHER OR NOT IT HAS VIOLATED THE OPEN MEETING LAW. LEGAL COUNSEL SAYS WE WERE IN COMPLIANCE. WE PRESUME LEGAL COUNSEL IS CORRECT AND WE WILL DEFER TO HIS LEGAL

OPINION. [ask for motion finding Authority has complied with OML based on legal opinion of counsel for the Board]

- Whether there was a violation of the OML at the 2.26.16 meeting?
    - SOL has run with regard to complaint on this issue
  - Whether there was a violation of the OML at the 7.29.16 hearing?
    - Did District Court determine there was a violation?
  - Whether there was a violation of the OML at 9.23.2016 meeting?
    - Did District Court determine there was a violation?
  - Whether there was a violation of the OML at the FEBRUARY 10, 2017 meeting?
-

## Points in Support of my vote re NCA deficiency and proposed cure

### Preliminary remarks:

- The school choice movement and the Charter School paradigm that has arisen in our State as a result of this movement rely on three important pillars for success:
  - Pillar 1: Autonomy
  - Pillar 2: Innovation
  - Pillar 3: Accountability
- We celebrate autonomy because we believe educators can do a better job than administrators and bureaucrats in delivering education. We rely on the skill and experience of education experts to deliver quality education to our students.
- Autonomy allows room for innovation. We recognize that the one size fits all approach to education has failed our children in local, national and world economy that is rapidly changing. I strongly believe that allowing groups of educators to develop and implement innovative approaches to educating our youth is essential to the success of public education in our State.
- As excited as I get when I think about the possibilities that exist by providing our Nevada students with public charter schools that are autonomous and innovative, all of it is meaningless without accountability. Real accountability. Accountability demands results. Allowing autonomy and innovation without accountability is irresponsible given the public funds that we have been entrusted to steward.
  - Accountability must be tied to standards that we all have agreed are important for the success of the students under our care. In this regard, our State law makers, policy makers and educational leaders have all agreed that one of the most important data points regarding school performance and student achievement is the graduation rate.

- Every school in the State of Nevada –whether they are a K-12 school or a 9-12 school- is held accountable to this agreed upon standard. And, for good reason.
- Graduation is more than merely one data point. It represents the collective efforts of the school, the students and their families to satisfy a certain agreed upon course of study that will prepare them to either pursue higher education or to enter into the workforce.
  - Indeed, it seems obvious to say this, but say this I will: students who don't graduate high school don't have a high likelihood of going to college or finding a high paying job. I don't know of any University seeking out young people to attend their school who have not graduated high school. I don't know of many employers, particularly in the New Nevada Economy, who are looking to recruit and hire people without a high school diploma.
  - I know from personal experience just how important graduating high school is to success. I was the first member of my family on my single mother's side of the family to graduate high school. This achievement did not come easy for me.
    - I was the oldest of my mother's five children – all from different fathers.
    - I was a homeless teenager.
    - I was an “at-risk” youth. Gang affiliated trouble maker. Angry. Alone. Afraid.
    - I dropped out of high school at the end of my sophomore year.
    - When I was rescued from the streets and re-entered high school, I was credit deficient.
    - Nevertheless, a group of educators did not look at my circumstances and throw up their hands and say, we cannot help this kid. He is at-

risk. He is a trouble maker. He is credit deficient. No, they rallied to provide me with every opportunity to graduate on time. They delivered that quality of education that set me up for future success in life.

- I graduated, barely, but I graduated.
- Making sure that students graduate is the most important objective of a school educating high school students. When a school fails to graduate students, they slam the door of opportunity shut on the student.
  - Again, a graduation rate of 35, 36, or 40% is more than merely one data point. It represents a lost cohort of students. It says to me that at least 6 out of every 10 students entrusted to the care of that school have been lost. These are young people like me who will not likely have the opportunities for success that I have enjoyed in life.
- So, I categorically reject the arguments made by NCA that graduation rate is merely one data point. I am appalled at the arrogance of such an argument. Really, it represents a tone deaf disregard for what we are collectively trying to accomplish for our students in the State of Nevada. I would expect a school that having received millions of dollars in public funds, but never graduated more than 4 students for every 10 it enrolls, to have approached this process with a greater degree of humility.
- In my opinion, something is broken.
  - It is not the Authority Staff as NCA has argued.
  - It is not NDE as NCA has suggested.
  - It is not the members of this Board charged with the duty to hold NCA account as was argued in a motion before these proceedings commenced in May.

- I refuse to believe it is somehow the students fault, as NCA seems to have argued, regardless of the circumstances in which they were enrolled.
- With a graduation rate of 26.5% (2011), 36.08% (2012), 33.91% (2013), 37.19% (2014), 35.63% (2015) and 40.09% (2016), it is clear to me that there is something broken with NCA's model for delivering education.
  - NCA is one of the worst performers in the state ranking 110/117 schools in 2016.
- I find these dismal results relative to one of the most important objectives in our education system unacceptable.
- Education reform that provides autonomy to education providers so that they can create educational space for innovation is useless without a zealous expectation for results.
  - School choice is not a meaningful choice if the alternative being offered is not rendering better results than the tradition system for education.
  - State has one of the lowest graduation rates in the nation.
    - Connections has the lowest graduation rate in the State with one of the lowest graduation rates in the Nation.
- If we are going to provide quality education to students, we must be willing to uphold the third pillar for Charter School success and hold NCA accountability for failing to graduate students entrusted to their care.

Therefore, I would like to proceed in this manner. First, we address whether the Authority has demonstrated by a preponderance of the evidence that NCA has failed to graduate more than 60% of its students in 2015 and 2016. Second, we will address whether the proposed cure of NCA is sufficient and acceptable.

Agenda Item Nos. 2 and 3

1 You have a charter contract with the school, and you must  
2 follow that.

3 What you will hear is that your staff has ignored  
4 both of those and refused to consider any data or  
5 information about this school's performance other than  
6 this single data point.

7 As many of you already know, it violates your  
8 adoptive performance framework to even be subjecting us to  
9 a closure hearing without having considered that other  
10 information.

11 If you measure NCA based on its performance with  
12 these students, you will see and you will hear from the  
13 evidence presented, that students who have been with  
14 Nevada Connections Academy for all four years of their  
15 high school graduate at a rate of over 80 percent, which  
16 may be the highest of any high school in the state.

*Handwritten notes:*  
- Every school  
- should have better  
- results  
- NCA would still  
- be a success

17 You'll hear from experts about that.

18 That's a true measure, as you will hear from  
19 education policy experts, of how this school is  
20 performing -- not holding it accountable or penalizing it  
21 for the credit-deficient students that it accepts from  
22 other schools.

*Handwritten notes:*  
- What if...  
- can we do  
- that?

23 This began in February of 2015 and you'll hear  
4 that as well. You need to hear the full timeline to



1 understand how this happened and why we're here and  
2 consider whether the deficiency has been cured.

3 Because in February of 2015, again, in violation  
4 of your own adoptive Charter School Performance Framework,  
5 without any communication or so much as a phone call, much  
6 less a notice of concern or notice of breach which are  
7 required under your own performance framework, NCA was  
8 placed on agenda for possible closure in February of 2015.

9 You will hear the evidence that not only did we  
10 not only have any notice of that, even a phone call from  
11 Director Gavin as to why we were on that agenda, even when  
12 we followed up with him he initially said the matter was  
13 with counsel and still wouldn't explain to us why we were  
14 on that agenda.

15 You're going to hear evidence that the only  
16 concern the Authority staff has identified with this K  
17 through 12 school is this single data point.

18 And you're going to hear that this school, as  
19 last rated, was in good standing and in fact the middle  
20 school is a ~~four-star middle school out of a five-star~~  
21 rating. So it was one of the highest rated middle schools  
22 in our state. That's what you're going to close down over  
23 a single data point.

4 You're going to hear what the Legislature

*Handwritten:*  
K-12

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PA is not good enough

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1 serving its students [on par or above the state average both historically and in recent years] NCA  
2 has cured the single alleged deficiency through multiple innovative cures; and, but for receiving  
3 nearly half of its cohort credit-deficient, [NCA's graduation rate would exceed 80 percent.] Staff  
4 failed to prove by a preponderance of evidence that NCA's cure is inadequate to address the  
5 alleged deficiency in the graduation rate. The evidence shows that no action should be taken to  
6 reconstitute the NCA board or to close the school based on this single uninformed data point.  
7

8 **II. Evidentiary Standard**

9 As this Board has recognized, adjudication of contested cases such as this must be based  
10 on a preponderance of the evidence. NRS 233B.121(9); 233B.125. The preponderance of  
11 evidence standard requires that Staff, as the party with the burden of proof, present "reliable,  
12 probative, and substantial evidence of such sufficient quality and quantity that a reasonable  
13 [administrative fact-finder] could conclude that the existence of the facts supporting the claim  
14 are more probable than their nonexistence." *Id.* at 491 (quoting *U.S. Steel Mining Co. v. Dir.,*  
15 *Office of Workers' Comp. Programs*, 187 F.3d 384, 389 (4<sup>th</sup> Cir. 1999)) (emphases added).  
16 Here, Staff has failed to prove through "reliable, probative and substantial evidence" that NCA  
17 has not cured the single deficiency staff has identified—NCA's graduation rate.  
18

19 **III. Argument<sup>2</sup>**

20 **A. Staff failed to demonstrate that NCA's cure is inadequate**

21 **1. Staff has violated Nevada law and the Charter School Performance Framework**

22 While NCA disputes Staff's reliance on the federally-calculated graduation rate, even  
23 given the Authority's vote in May adopting the federal calculation as the correct measurement  
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25 <sup>2</sup> While NCA disputes the Authority's decision that the four year federal cohort graduation rate applies to  
26 the determination at issue with no consideration to the student population in that cohort, NCA  
27 understands based on the Board's direction and vote at the May hearing that the Board will apply that  
28 definition for purposes of this proceeding, and NCA should focus its arguments appropriately. Accordingly, NCA reserves all legal rights relative to that decision, but in accordance with the Chair's and board members' directives at the hearing, herein focuses on the issue of the adequacy of the cure.

concedes 2-  
deficient  
grade rate

*\* Something is broken in the NCA model for education delivery, and I refuse to believe it is the students based on the evidence presented*

1 analysis was the four-year adjusted cohort graduation rate). Gavin's testimony demonstrates that  
2 he failed to consider the obstacles of schools that enroll a large number of credit-deficient  
3 students prior to making a recommendation to the Authority, to consider the impact of  
4 withdrawn students on NCA's graduation, or anything other than the single number itself—a  
5 position that is blatantly inconsistent with his testimony to the Legislature.  
6

7 Likewise, Director Gavin admits that qualitative factors influencing the graduation  
8 rate would be relevant to his decision as to whether to recommend closure based on a  
9 school's graduation rate falling below 60 percent. See Vol. III, at 231-32. For example, he states  
10 that he would consider the following: whether the credit deficient students enrolled in 11<sup>th</sup> or 12<sup>th</sup>  
11 grade, "the number of kids who got caught up [credit-wise,]" . . . "the degree that this school was  
12 continuing to keep the student engaged, . . . kids who are taking summer school, doing whatever  
13 else, loading on more credits to be able to get caught up – that would certainly be important. And  
14 that would likely result in a lot more kids graduating on time." Vol. III at 231-233. He also  
15 admits that the 5-year cohort rate could be compelling evidence to consider for a high school  
16 because "such a school is demonstrating that it is taking students who were behind and is  
17 keeping them engaged and getting them on track to a diploma in five years, which is a great  
18 outcome for those kids." See Vol. III, at 239-240. However, Director Gavin did not look at this  
19 information prior to recommending issuance of a notice of closure or that NCA's cure is  
20 inadequate during these high stakes proceedings, despite that NCA has submitted all of this  
21 information and more in relation to these proceedings and its proposed cures and despite that  
22 NCA went to Director Gavin as early as September 2015 to proactively invite discussions with  
23 the Authority related to the causes leading to its low graduation rate. For example, he fails to  
24 disclose to the Authority that for the 2014-15 cohort, the 5th year graduation rate was nearly 7  
25 percent higher than the 4-year cohort rate – (as it was 42.22%). Instead, Gavin has only  
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8 *↳ still far below 60%*

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2. Staff improperly seeks to limit the evidence the Authority can consider

Contrary to his reliance on a single flawed statistic, Director Gavin admitted during his testimony that that the Authority does have discretion under NRS 388A.330. Director Gavin opines that the Authority should exercise this discretion in the event of a natural disaster that displaces children. See Vol. II, at 191. Director Gavin admits that compelling evidence should be considered but then imposes his ad hoc opinions as to what might be “compelling” – limiting circumstances to natural disasters that displace students. The arbitrary application of his limitation is evident from the fact that NCA’s graduation rate is a result of displaced students who enroll at NCA credit-deficient—often as the result of being “counseled out” of their previous schools due to their credit status—which, as NCA has demonstrated, and Director Gavin and his staff have acknowledged, is the cause for NCA’s graduation rate falling below 60 percent. Therefore, the Authority should reject Director Gavin’s improper reading of NRS 388A.330 and arbitrary ad hoc rulemaking to limit what he considers to be “compelling evidence” this Authority should consider relative to whether to exercise its discretion in seeking closure of NCA due its four year cohort graduation rate being below 60%.

Director Gavin concedes that there is a substantial difference between a credit-deficient student who became credit-deficient at NCA, and a student who enrolls in NCA credit-deficient. Vol. III, at 286. NCA is fully accountable for the former category, but should not be penalized for the latter<sup>9</sup> NCA has demonstrated that 49 percent of its 2016 cohort were one or more semesters behind when they enrolled at NCA and that most of these credit deficient students enrolled late in their high school career – junior and senior year when NCA had little or no opportunity to help these students catch up and graduate on cohort See Vol. IV, at 155-56. The

<sup>9</sup> NCA’s position is consistent with Senator Harris’s concerns as expressed in the 2015 legislature and the subsequent revision to allow the Authority discretion regarding school closure decisions.

*to say same as large credit deficit population from other public schools*

*was this meant to be different of credit deficiency?*

1 school. Vol. III, at 70-72. Thus, Director Gavin's criticism here is based on an argument he did  
2 not deem problematic when recommending the adequacy of cures for other similarly-situated  
3 schools.

4 • Voluntary reconstitution proposal

*Reconstitution is  
not going to solve  
the problem*

5 Director Gavin testified that he does not believe NCA's voluntary reconstitution proposal  
6 in the March 24, 2017, cure letter (also included to respond to Staff's suggestion), provides for  
7 complete reconstitution in a reasonable time, because "a restart of the school's governing body  
8 only works if it is a wholesale change"—but he can point to no nexus between a "wholesale  
9 reconstitution" and an improved graduation rate when the sole basis for the need for an improved  
10 graduation rate stems from the high numbers of students who enroll in the school already  
11 severely credit deficient. Vol. II at 180-182. Director Gavin initially testified to a "growing  
12 body of evidence that charter school restart . . . is very strong, and frankly one of the most  
13 evidence-based forms of turnaround, one of the few areas, for example, in the school  
14 improvement research where we see any material difference or sustained material difference in  
15 pupil outcomes. . . . There's a fair body of data." Vol. II, at 182. On cross-examination, Director  
16 Gavin admits that no such data exists – and was unable to provide specific evidence to support  
17 that wholesale restart or massive change in governance improves graduation rate. Vol. III, at 75-  
18 77, 80. Such unsupported and contradictory assertions do not constitute "reliable, probative, and  
19 substantial evidence" as required by law and has absolutely no nexus between the proposed  
20 remedy and the demonstrated problem attempting to be remedied – a low graduation rate  
21 stemming solely from high numbers of students transferring into NCA during their high school  
22 years already severely credit deficient.

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26 Director Gavin also testified that NCA's voluntary reconstitution proposal is "no  
27 different really than what we see in the bylaws of a lot of schools." Vol. III at 74. However, he  
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77 strike from record

1 on May 25-27, 2017, refused to engage in further discussions or to pursue this discussion with  
2 NDE and the school – asserting that he thought the difference between “settlement” and a “cure”  
3 was a distinction without a difference – although throughout the course of the hearing he  
4 acknowledged the cure and its adequacy were not confidential. See Vol. III at 67, 69  
5 (acknowledging “cure” clearly falls outside settlement); see also Vol. III, at 212 (Director Gavin  
6 admits he refused to discuss a cure without a confidentiality agreement in place, yet he  
7 previously stated that the proposal NCA sent to him in November 2016 was not a “cure” because  
8 it was a “settlement”).  
9

10 Director Gavin states that NCA’s proposal was inadequate when compared with Beacon  
11 Academy’s (“Beacon’s”) similar proposition because Beacon “amended its charter” to “limit its  
12 enrollment to those students who were credit-deficient as defined under SB 460 and Nevada  
13 regulation,” and “agreed to additional contractual elements as part of that transition.” Vol. II at  
14 186-87. With the exception of the “additional contractual element” Director Gavin refers to—  
15 the requirement that Beacon waive its right to judicial review—NCA’s proposal as included in  
16 the March 24, 2017, cure letter is substantially similar—it would require that NCA amend its  
17 charter to identify subcategories of students based on those who arrive at the school credit-  
18 deficient pursuant to Nevada law. In addition, NCA stated in the proposal that “if the alternative  
19 performance framework school within a school were approved by the Authority as described  
20 above, then NCA would apply to the Authority to sever the high school from the K-8 charter as  
21 the Authority Staff has requested, in order to resolve the Authority’s concern that it cannot, under  
22 the statute, close the K-12 school based on the high school graduation rate”—this would also  
23 require NCA to amend its charter to create “subcategories” of students, as Director Gavin praised  
24 in Beacon’s plan. Moreover, given Director Gavin’s recent proposal regarding oversight of  
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28 adversely impacting the NCA high school graduation rate. As noted above, NCA anticipates this would

Could we allow an immediate solution by contract? We have been authorized to contract w. charter

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1 authority for any provision included in a contract with a charter school, and that the SPCSA has  
2 contracted with charter schools accordingly. See Vol. III, at 72-73. Moreover, a school may  
3 request to amend its charter in ways that are not statutorily enumerated in NAC 386.326 to  
4 386.3268 under NAC 386.3269—and the regulations governing charter amendments do not  
5 foreclose a school’s opportunity to request an amendment of any kind. See generally NAC 386.  
6 Finally, Director Gavin has again contradicted himself by proposing that the Department of  
7 Education adopt regulations to allow the SPCSA to carry out this very action.  
8

9 Because the only concerns Staff has identified with NCA’s cure proposals are either  
10 unsupported in law, belied by the Authority’s allowance of similar unprecedented measures for  
11 other schools, or issues which NCA has already corrected—the Authority cannot, logically and  
12 reasonably, reject NCA’s cure proposals based on any of Staff’s last-ditch “concerns.”  
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14 **4. NCA has addressed Staff’s concerns through multiple innovative cure proposals**

15 NCA has proposed three previous comprehensive cures, and submits a fourth cure  
16 proposal along with this closing argument – each one responding to the ever moving goal post  
17 presented to it by Director and his Staff – and all of which demonstrate NCA’s persistent  
18 willingness to work with the Authority to develop an adequate cure, and have yielded great  
19 strides to increase NCA’s four year cohort graduation rate.

20 After the Authority issued a notice of closure on September 30, 2016, (“Notice”), NCA  
21 reached out to Mr. Ott via email on October 5, 2016, asking for the Authority’s guidance  
22 regarding a proposed cure. See, e.g., Ex B-1. Mr. Ott did not respond. After repeated follow-up  
23 attempts, Mr. Ott responded to NCA on October 24, 2016, that he did not believe the Authority  
24 was obligated to “tell the school how the deficiency may be cured” (see Ex. B-2) – an interesting  
25 tack given the Authority’s statutory role is to help the schools it oversees to succeed. Without the  
26 benefit of any guidance from Authority Staff, NCA prepared a proposed cure and submitted it to  
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check deficient  
what do we do  
@ this class

Didn't all schools  
see a similar bump?

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Two things stand out in reviewing the data for NCA's 2015 and 2016 cohorts (which Staff still has never done): (1) "the percentage of students that arrived at the school credit-deficient"—"just under half [of students] for the 2016 cohort" and "just over half for the 2015 cohort, and (2) "the average length of enrollment of all the students in the cohort . . . just under one and a half years." Vol. IV at 142-43. Expert witness Wicks explained that where a student arrives "very late in their high school career and is highly credit-deficient," it is "highly unlikely" they will graduate in their four year cohort. Vol. IV, at 153-154. For NCA, of the 49 percent, or 163 students, that enrolled in NCA credit-deficient as part of the 2016 cohort, 84 percent of credit-deficient students were credit-deficient by at least one year or more upon enrollment, and came to the school in either 11<sup>th</sup> of 12<sup>th</sup> grade—falling within "highly unlikely," and near impossible, category for graduation on-cohort. Vol. IV, at 154. This is compelling information for the Authority to consider in using its discretion to analyze whether closure is a reasonable outcome under NRS 388A.330 – and also whether NCA has provided an adequate cure or at least deserves the opportunity to work with its authorizer to address the issue.

Moreover, NCA presented evidence that a nearly five percentage point increase in its federally-calculated graduation rate is significant and rare when compared with other Nevada schools—evidence that NCA's March cure proposal and the associated implementation of the graduation rate improvement plan is working.<sup>27</sup> See Vol. IV, at 56; *id.* at 55-56 (Dr. Vineyard testifies that a more dramatic increase of 10 percent would be improbable for a school that enrolls a number of credit-deficient students). Dr. Vineyard also confirms that a close look at the data and nature of the student population behind a school's "graduation rate" is necessary to fully judge and understand the school's progress. See *id.* at 56-58 (stating, for example, that "you'd

<sup>27</sup> Along with the data and as part of the graduation rate improvement plan, NCA submitted declarations from school teachers and personnel to demonstrate that implementation of the Grad Point Recovery Plan has been effective from a ground floor perspective—though the school's graduation rate would benefit from additional time to continue implementing the same. See, e.g., **Supp. Ex. B**, Declaration of Joe Thomas.



# BRIEF EXHIBIT A

Vol. III, p. —

→ school performance  
↳ 2 years for experts  
at elementary level  
(This year should be omitted)

→ Grad rate  
= NDE's reported  
grad rate Vol. III, p. 345

Vol. III  
pg 264-274

Important factors regarding  
whether we approve a call or not: *Next Gen*

- ① measurable outcomes (yes)
- ② attainable outcomes (yes)
- ③ ability of school to implement on proposed outcomes  
↳ capacity

Will the school  
reach the minimum  
level of performance  
in 3 years?  
→ outcomes in 3 years  
based on agreed  
benchmarks

- ④ Leadership/Commitment  
= context  
↳ performance  
measures

# BRIEF EXHIBIT A

**NCA's Amendment to Proposed Cure for Alleged Deficiency in  
Four Year Cohort Graduation Rate**

In accordance with the permission of the Authority at the conclusion of the May 2017 hearing, NCA submits the following additional proposal to cure the alleged deficiency in the high school's four year adjusted cohort graduation rate.

Focus on performance  
Agree upon framework  
Parents Title  
Expense of Board  
NCA

**1. Judicial and Agency Review Waiver**

Based on Chair Guinasso's statements at the May 2017 hearing that any acceptable cure should include some judicial review waiver, NCA proposes that both Staff and NCA waive any right to judicial review and further agency action for any actions or failures to act and any school performance related issues raised in this proceeding or that occurred any time prior to the date the cure is accepted by the board.

→ NEED limit to 1/2 R to include limitation  
to agreed upon bench mark / + board etc  
→ SEE 8.1.5.1

**2. Enrollment Cap**

Based on discussions with Chair Guinasso and Staff following the May 2017 hearing, NCA understands Staff seeks as an element of the cure some form of enrollment cap. In an effort to address this suggestion, NCA proposes a High School Enrollment Cap: Upon the date the NCA board is allowed to consider students separately enrolled in a program governed by the alternative performance framework for its credit deficient high school students, NCA's high school enrollment will be capped such that the % of students who are one semester (2.5 credits) or more credit deficient will not exceed 25% of the total high school student population provided that NCA shall be required to and will offer to serve those students in the alternative performance framework program. NCA in any event would put in place a hard cap of 2,000 students for the high school only. Exceptions will be given to those students who are naturally matriculating from NCA lower grades into NCA 9th grade through 12 grades and for siblings of current students. In the event of extraordinary circumstances, for example a severe weather event that disrupts brick and mortar schools where the state has a need to provide a temporary school for displaced students, the cap can be lifted with the permission of the Executive Director without the need to seek an amendment from the authorizer.

Hard cap  
2,000

1300

800  
200 per grade

Under this approach, the school is incentivized to vigorously keep students from becoming credit deficient and work to get students who are credit deficient below that 1 semester threshold and the cap creates a natural pathway for credit deficient students who qualify for the alternative school and want a CA school to enroll in the alternative school.

**3. Annual Reporting**

Both NCA and its academy to serve credit deficient students (currently the Every Student Succeeds Academy, ES2), will submit annual (by January 30 following the close of the preceding Academic Year) reports to the Authority tracking school performance (all data will be

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

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

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

*Every  
School faces  
this issue*

21 And we know that's through no one's intention, it's just a  
22 statement of fact.

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

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

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

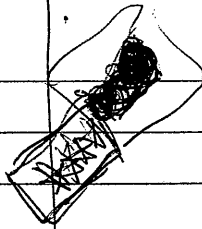
14           So I don't think it's appropriate to ask for a  
 15 comparison, or for us to provide -- provide evidence of  
 16 what other schools are doing when you have us here solely  
 17 on our four-year cohort graduation rate, and I --

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

*W. wants  
 like NEA,  
 it does  
 not matter  
 same choice  
 of success.  
 going to  
 traditional  
 public  
 school*

# NCA's Case-in-Chief

Dr. Richard Vreigand



- Background/Qualifications
- Measures of Student Achievement during his tenure
- Nevada Performance Framework

① No single data point  
 Can tell you how a school performs  
 → Grad rate

① Why is grad rate important?  
 ② What does it tell us about school performance?

② What are these → Test scores?  
 → Schedules

③ K-12 to be evaluated solely on grad rate would be problematic?  
 \* High School

□ Single data point should not control

What if grad rate was consistently higher for 5 years?

Value Assessment

④ What is the definition of grad rate?

↳ meant several things

↳ 4 year cohort grad rate?

Federal Report

→ State would not want its own definition

2011/12	26.5
2012/13	36.08
2013/14	33.91
2014/15	37.19
2015/16	35.63
2016/17	40.09

How should board exercise discretion when making w.o. T&E

□ Hypothetical re  
students a to 12<sup>a</sup>  
50% = 100% grad.

students 1 hr ~~and~~  
50% = 0 grad

□ NRS 388A.330

→ Director to require a  
"High School" Chart

What is the  
intent of  
"High School"?

□ Under-performance  
is equated with  
graduation rate  
NRS 388A.330

Do you  
disagree with  
the regulation  
which  
equates  
graduation  
rate with  
performance?

□ 35% to 40%  
is significant?

↳ acceptable?

↳ what do you expect?

□ Federal Law controls  
what Nevada uses as  
graduation rate

↓

5 ~~What about 2 star & 1 star~~

14 ~~50 middle schools~~

~~Diff. school with~~  
~~high test scores~~  
average grade point  
of 34.9%

Curriculum @ school  
Not a fair of  
vision/schools  
from 6 to 10

Who  
may  
why?

→ What does this say to  
you about overall school  
performance?

→ Would reconstitute  
or closure be  
appropriate?

Other states? \* Causes of change

Questions

- ① How many in AA or 12<sup>th</sup>
- ② How many 10<sup>th</sup>
- ③ How many
- ④ Passy courses
- ⑤ Explain what if, ...  
year behind

□ Credit deficiency

↳ State Deficit

↳ Connecticut Deficit

When  
it is  
during the  
measures

□ At or exceeding grad rate  
in a few years?

2013  
Renewal

□ ELL calculation

□ Transfer rate

↳ overall transfer  
rate?

1.5 years  
average  
length of  
trial

□ pg. 2/3 of power point

↳ What makes a person  
a 10<sup>th</sup>, 11<sup>th</sup> or 12<sup>th</sup>  
grader

Chronologically

(B-4) CCOD

look at body  
and impact  
to grad rate

□ Statewide Increase

in graduation rate 2015/2016

2013/14

2014/15

Testing

Comparison

Conclusion

→ % of students a 12<sup>th</sup>



LUNA: 0

① How will the plan work  
when 2013 did not work?

② f/R - why

Random thoughts

↳ Different school  
teacher  
↳ School board

↳ Critical piece?

↳ Reporting/Benchmarks

Will any  
changes  
do now

↳ Historical performance not  
indicator of future  
success.

↳ Meaning is intention

How long?

↳ FAMILY

□ 49% of come with credit deficiency?

↳ Really?

□ At is the students default amount . . . .

□ w/o these students 62%?

□ Staff has refused

□ ANCA's performance  
→ 80% with students who sent with NCA in 9th grade to on time

□ Performance of framework

↳ Intervention Ladder

DOES NOT Apply to WRITTEN CHARTER

□ 4 step middle school

□ Why 35%

NO offers of 35 to 45%

□ PLAN to correct is, in fact, working

#?

□ High Status decision require

□ curr proposals continued  
↳ variety of self-reports

→ graduate rates?  
→ new calculations

(1)

consequently  
re-problem  
solving?

□ Bench Marks

↳ Stuffed Bench Marks

↳ Don't satisfy their  
own Bench mark

4 year cohort  
grad rate must  
follow federal  
guidelines?  
or if it is  
lost?

□ Improvement of grad rate as  
a condition of renewal?

\* plan was articulated  
not written ex (2)

(3)

□ curr is not effective

□ Reconstitution of Board

↳ How does reconstitution  
address problem present  
→ cost, graduate rates

curr vs reconstitution

↳ Should not allow for  
current Board to pick  
successors

(4)

\* successful reconstitution?

↳ one of the most effective  
ways to

□ Replace Governance  
↳ Management

Elements not present

□ Academic Attention

→ not adequate

□ MA Charter

↳ it is a High School Explain  
because

□ Refocusing the Charter (?)

Splitting High School  
from K-8

Why not  
adequate

□ School within a school

(?)

↳ ~~Component & Control~~  
(?)

□ NO new proposal

□ other Ventures ?

ALL FRAMEWORK

↳ Beacon  
Academy

□ New Charter App (?) (2019)

Ex. V

(Obj. (Academy) (not) \* Credit Refining (isn)  
related (related)

□ 5/4/17 - E-mail re: credit deficiency

□ # of students who are credit deficient

□ Differentiation of seeing credit deficiency . . . .

□ ELL

□ Credit Deficient Students  
↳ How do we know?  
↳ Is that important?  
↳ ~~How~~ should we include this factor

OK

□ Review of impacts re: 2015 Cohort

□ Beacon Academy → credit deficiency

□ Credit deficiencies  
→ less than 75%  
re. for the performance  
&lt; performance framework



STATE PUBLIC CHARTER SCHOOL AUTHORITY

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BRIEFING MEMORANDUM

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**TO:** SPCSA Board  
**FROM:** Patrick Gavin  
**SUBJECT:** Agenda Item 5—Discovery Recommendation  
**DATE:** April 28, 2017

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**Background:**

At the January 27, 2017 meeting of the State Public Charter School Authority Board, the Authority Board received information regarding the 2015-2016 performance of Discovery Charter School. The Authority Board then directed staff to issue a written Notice pursuant to NRS 388A.330(1)(f) (“Notice of Intent”) based on the identification by the Department of Education of being in the bottom five percent of all elementary and middle schools during the 2015-2016 accountability year. The Notice of Intent was issued pursuant to NRS 388A.330(2) on February 10, 2017.

- 1) The deficiencies or reason upon which the action of the Authority was based was the identification by the Department of Education of being in the bottom five percent of all elementary or middle schools during the 2015-2016 accountability year as required by NRS 388A.330(1)(f). Discovery’s performance in 2015-16 was determined to be in the lowest five percent of elementary or middle schools statewide.
- 2) Pursuant to NRS 388A.330(2)(b), the school was given at least 30 days within which to correct the deficiencies. The first day of this period was February 13, 2017. The date by which the school must have completed all efforts to correct these deficiencies was March, 24, 2017.
- 3) The school submitted the attached materials as evidence that it had corrected the deficiencies, uploading that information into Epicenter.

**Recommendation:**

Staff recommends that the Authority accept the school’s proposal to reconstitute the school. If the Authority votes to authorize reconstitution under a new governing body, the Executive Director will issue a Request for Proposals (RFP) to invite either a new grassroots committee or the governing body of an existing school or charter management organization to assume the governance of the

school effective on or before July 1, 2017. The RFP will require the new governing body, if selected, to retain a third party evaluator approved by the Authority to evaluate the academic program and suggest academic, organizational, and financial plan changes, which may include but are not limited to enhancements to the existing project-based learning program or the submission of a charter amendment to make more material changes to the academic program. In the event that a new, qualified governing body cannot be identified by June 16, 2017, the Executive Director would request that the Authority rescind its reconstitution order and approve the revocation of the written charter and the closure of the charter school at its June 23, 2017 meeting.



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BRIEFING MEMORANDUM

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**TO:** SPCSA Board  
**FROM:** Patrick Gavin  
**SUBJECT:** Agenda Item 5—Discovery Charter School Request to Convert from Written Charter to a New Six Year Charter Contract  
**DATE:** April 28, 2017

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**Background:**

Current statute does not prescribe a process, timeline, format, or contents for the renewal or conversion of a written charter to a charter contract at the end of a six year charter terms. There are currently no regulations in place which govern such conversions or renewals and the Authority does not have the power to adopt regulations related to such renewals under NRS 388A.168(2) or elsewhere. Consequently, language related to such processes was not included in R089-16A, which governs charter applications, charter amendments, and the renewal of charter contracts. The Authority adopted those regulations on November 14, 2016 and they were approved by the Legislative Commission on December 21, 2016.

The Authority recognized the need to provide schools with some guidance related to process and timeline for requests to convert a written charter to a charter contract through a renewal application. To that end, the Authority adopted a review process and timeline on January 4, 2016 and reaffirmed that process at its October 21, 2016 meeting, adopting a bifurcated process for considering such conversion renewal decisions. The Authority has provided for schools which are designated as high performing to be eligible for expedited renewal. Under that system, eligible schools are invited to submit a letter requesting expedited renewal based on previously published data. Based on current academic performance, several schools were eligible for expedited renewal in 2016-17:

- Oasis Academy
- Imagine School at Mountain View
- Somerset Academy

All three schools were awarded expedited renewals and are transitioning to charter contracts for their next six year term.



Discovery Charter School's (Discovery's") written charter also expires this year, but its academic performance was not sufficiently high achieving to merit expedited renewal. Discovery submitted an application by the deadline set by the Authority. That application is included in the support materials for this item.

**Recommendation:**

Based on advice from counsel, staff has followed the process laid out in R089-16A, notwithstanding the lack of specific applicability of those renewal regulations to the process of converting a written charter to a charter contract at the end of a six year term. Staff recommends that the application for conversion of the written charter of Discover Charter School to a charter contract (the "renewal application") be denied for the purpose of reconstituting the governing body of the charter school pursuant to NRS 388A.330 in accordance with Section 10(11)(d) of R089-16A.

The basis for this recommendation is the school's academic performance during the current charter term. Pursuant to the state's commitments to the federal government under the Public Charter School Program and Section 10(11)(b) of R089-16A, sponsors, including the Authority, shall "not give any one factor more weight than the academic performance of pupils" in evaluating an application for renewal. Discovery Charter School was determined by the Department of Education to be in the bottom five percent of all elementary and middle schools during the 2015-2016 accountability year. This most recent determination by the Department of Education follows multiple years of underperformance by Discovery Charter School, as the school's elementary school program was ranked at the two star level during the two most recent ratings of the Nevada School Performance Framework (2012-13 and 2013-14 accountability years). All of these facts are reflected in the renewal application Discovery submitted in February.

Consequently, the Executive Director is recommending that the written charter of Discovery Charter School not be converted to a charter contract at the end of this charter term due to the school's consistently poor track record of academic performance. Instead, staff recommends that under section 10(11)(d), the Authority deny the renewal "for the purpose of reconstituting the governing body of the charter school pursuant to NRS 388A.330 and assigning the charter contract to a charter management organization or a new governing body which may include, without limitation, the governing body of another charter school or a governing body assembled by the Executive Director."

If the Authority votes to deny the renewal for the purpose of reconstitution under a new governing body, the Executive Director will, not later than May 1, 2017, issue a Request for Proposals (RFP) to invite either a new grassroots committee or the governing body of an existing school or charter management organization to assume the governance of the school effective on or before July 1, 2017. The RFP will require the new governing body, if selected, to retain a third party evaluator approved by the Authority to evaluate the academic program and suggest academic, organizational, and financial plan changes, which may include but are not limited to enhancements to the existing project-based learning program or the submission of a charter amendment to make more material changes to the academic program. In the event that a new, qualified governing body cannot be identified by June 16, 2017, the Executive Director would request that the Authority exercise its authority pursuant to R089-16A(10)(13) to reclassify the denial to a denial for the purpose of closing the charter school at its June 23, 2017 meeting.

Consistent with Section 10(7) of R089-16A, staff invited the school to submit a written response to the Authority, which may include supporting affidavits, exhibits, any other documentary evidence and a written legal argument. The school was also given the option to request that the materials it

had previously submitted in response to the Notice of Intent be considered as the response to the written notice that was shared with the school on April 24, 2017 and that Staff would not oppose a request from the school for additional time to prepare a response.. In the event the school did seek a continuance, any additional written information was to be submitted into the Response to Non-Renewal submission task in Epicenter by no later than 5 pm on Monday, May 1, 2017.