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VIA U.S. MAIL & ELECTRONIC MAIL

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***Re: Nevada Virtual Academy
Renewal Recommendation Grades 6-12***

Ryan:

This letter is sent in follow-up to your November 21, 2018 correspondence; the discussion on November 26, 2018 that included both of us, as well as Mr. Modrcin, Nevada Virtual Academy (“NVVA”) Board President Samantha Morris, NVVA Head of School Yolanda Hamilton, and NVVA’s Federal Grants & Assessment Director Ben Gerhardt; and our subsequent communications relating to NVVA’s Renewal Recommendation.

As a preliminary matter, we appreciate the dialog that has occurred regarding NVVA’s Renewal Recommendation. We are also appreciative that both parties agree that NVVA’s charter contract for grades 6-12 should be renewed for six years. NVVA’s concern relates to what performance metrics and conditions should be included in the new contract. In an effort to simplify the issues before the State Public Charter School Authority (“SPCSA”) Board relating to NVVA’s Renewal Recommendation, this letter will highlight the key areas we would like to see amended,¹ as follows:

Enrollment Caps

- NVVA is suggesting that any caps imposed as a condition of NVVA’s charter renewal for its middle school not be grade-specific. In other words, NVVA is agreeable that its middle school program be capped at 780 for the 2019-2020 school year, but would like the flexibility to have a different number of students enrolled at each grade level based on demand.

¹ Obviously, both the NVVA governing board and SPCSA board would each need to approve final language of the renewal charter.

- In regard to NVVA's high school, NVVA is suggesting that there not be a specific grade level cap for grades 9-11 and that a grade-specific cap only be applied to grade 12. For example, if the current caps are extended for the next school year, NVVA would request a cap of 780 students for grades 9-11 and a cap of 230 students for grade 12.
- NVVA also requests that it be provided the opportunity to grow both its middle school and high school program enrollment by 5% any year following the specific program receiving a 3-Star rating under the Nevada State Performance Framework ("NSPF"). In other words, because NVVA's middle school did not receive a 3-Star rating this past fall, NVVA is not seeking to increase enrollment in its middle school program for the 2019-2020 school year. However, because NVVA's high school program did receive a 3-Star rating, NVVA should be permitted to increase high school enrollment during the 2019-2020 school year by 5%.

Organizational Conditions and Oversight

While NVVA wishes to be collaborative and provide SPCSA staff with enrollment and academic information through the quarterly reporting set forth in the recommendations, the school has concerns regarding the request that staff be provided "access to all student databases operated and *used* by the charter school" as this would include access to proprietary systems and databases of third parties. This is legally problematic as those third parties are not a party to this charter contract. While NVVA is open to providing enrollment and academic information to SPCSA staff, the mechanism for doing so needs to be further refined.

Performance Metrics

NVVA is not opposed to goals and performance metrics being included in the renewed charter contract, subject to agreement of the parties. In fact, NVVA included in its application three pages of annual goals for the renewal term. However, NVVA finds SPCSA staff's proposed automatic closure triggers legally flawed. The Nevada legislature has specifically indicated under what conditions a charter school may be closed. Automatic closure, which is provided for pursuant to NRS 388A.300, does not permit the SPCSA to close a school after two years of failing to be a three-star school as SPCSA staff is proposing.²

² Moreover, that section exempts most years of state data from being used because of the unreliability of that data. The Nevada legislature has now twice removed certain years of state data from being used in these high stakes decisions.

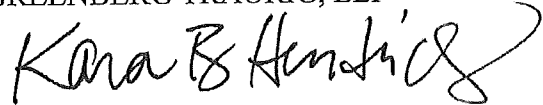
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That said, NVVA is not opposed to finding agreeable performance metrics whereby the SPCSA may legally exercise its authority under NRS 388A.330 to place NVVA on track for intervention and ultimately closure, so long as state law is followed and NVVA's due process rights are not infringed. To that end, NVVA would be agreeable to the SPCSA setting the index metric at 40, and that failure to reach that index score would trigger the performance framework process for intervention. As you know, NVVA has serious concerns about the use of the index score³ as a sole performance metric, but I am suggesting this compromise as a sincere attempt to find common ground while following state law and ensuring NVVA the rights enumerated under state law.

This correspondence is not meant to be all inclusive and is sent without waiving any rights and/or arguments and is sent in an effort to further facilitate discussion at the November 30, 2018 meeting in hopes of closing the gap between the view of NVVA and SPCSA staff. We appreciate your time and attention to this matter.

Very truly yours,

GREENBERG TRAURIG, LLP



Kara B. Hendricks, Esq.
Shareholder

KBH/abf

cc: Samantha Morris
Yolanda Hamilton
Jason Guinasso
Robert Whitney

³ As previously discussed, there is no reliability and predictability associated with the state data and NSPF ratings. Demonstrating this uncertainty, the NSPF most recently changed to include test participation requirements based on sub groups of students and penalties associated with the same. Additionally, we understand that climate surveys which provided the school points in the NSPF ratings will no longer be awarded. The continued revisions by the state create uncertainty and produce a situation where it is very difficult to compare performance year over year based on *always changing* data points.

