

EXHIBIT B

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"NACSA_Gavin"

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Panel:

- Nelson Smith
- Mukta Pandit
- Jennifer Robison
- Bonnie Holliday
- Patrick Gavin

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CALIFORNIA CSR #4525

1 everything else in our portfolio -- which is exactly what
2 is happening to the authorizer that has ECOT, as well as
3 another larger school operated by K12 with another
4 authorizer. Because they have 10- and 15,000 students,
5 all the other performance of their portfolio won't matter
6 in this authorizer review.

7 And so we are really looking at this as an absolute
8 direct attack, really a two-prong attack, to closing
9 online schools in our state. So if they change the
10 funding, there are some schools that just literally would
11 not be able to operate anymore.

12 And then if they need the ADM, what it will force --
13 force authorizers to do is either dump those schools and
14 close them, or the authorizer will have to close in a
15 couple years, because they'll never be able to reach a
16 rating that reflects their practices because of this one
17 school's ADM.

18 So those are the two issues we're grappling with.
19 And, you know, as an individual authorizer, we're
20 obviously grappling -- grappling with the performance
21 metrics and those things. But those two immediate things
22 are just a bigger picture of, "If we can't close you for
23 academic performance, we are going to find other ways to
24 get to you." And that's -- that's just how we feel right
25 now in our state.

1 MR. SMITH: Yeah. Thank you.

2 Patrick, as a statewide non-district authorizer
3 you've got some policy and politics, I would say,
4 challenges, and including access to data, which is one of
5 the questions that came up, so --

6 MR. GAVIN: Sure. Thanks, Nelson.

7 So I would clarify one thing. We are actually a
8 statewide district-like authorizer. Since we are
9 technically the local education agency for our schools,
10 we actually get all our data reported as the 18th
11 District in the State.

12 And they -- and one of the structural challenges we
13 face is that we are a State agency, we act like a
14 district in some ways, we're also an authorizer -- with
15 one FTD authorizing staff, which is this guy, for -- for
16 a portfolio of 31,000 students.

17 So I -- we have a whole bunch of LEA and state fiscal
18 agency staff. But in terms of people who actually do the
19 authorizing work, there's just me at this point --
20 something we're hoping to change in the next legislative
21 session.

22 But one of the challenges that we have is that, as an
23 agency in a state that does performance-based budgeting,
24 our ability to actually access our fee revenue, that 2
25 percent that is -- that is provided for in statute for

1 all -- for all charter school authorizers, is curtailed
2 by our performance.

3 We have -- we actually have lost positions and lost
4 funding on a legislative appropriation basis due to
5 the -- due to the aggregate performance of our schools.
6 Most notably, the year-end graduation rate. We're at --
7 we are the -- Nevada is the third lowest-performing state
8 in the country on grad rate. This is something both the
9 legislature and the governor want to improve. We are the
10 lowest-performing LDA in the state by that metric.

11 And the -- and the cold-hearted reality is that that
12 is directly attributable to the performance of four
13 online schools. Some of those schools have seen some
14 marked improvement in graduation rate in the last several
15 years. But the fact of the matter is that, in aggregate,
16 more than 50 percent of our portfolio of high school
17 graduates -- or of high school students attend online
18 schools that are performing at very low levels, less than
19 50 percent graduation rates -- a 33 percent graduation
20 rate in one particular case, a zero percent graduation
21 rate in another case.

22 So there is a -- there is a great deal of impatience
23 from -- on the -- on the policy making and appropriations
24 side, and a significant amount of -- of pressure to -- to
25 just simply wipe the slate clean and say, "No more

1 virtuals in -- in this agency's portfolio."

2 And I think that both myself and my board struggle
3 with that, because we do think that that's -- this is
4 clearly a choice that many parents want. We have --
5 right now about 20 percent of our overall enrollment
6 is -- is in online schools, and that number has remained
7 about constant, even though -- since -- since 2011.

8 We, much like Bonnie, inherited a cohort of schools
9 that were formerly sponsored by the State Board of
10 Education. And when we were spun out as a separate
11 agency, this was -- we inherited a number of schools,
12 including one operated by K12, one operated by
13 Connections, a former Insight School, and -- and a couple
14 of -- and a couple of standalone virtuals, as well.

15 What's intriguing, I think, is that we are seeing how
16 schools are starting to shift their behavior in order
17 to -- to begin to modify this -- these performance
18 issues. So in one case -- actually, in two cases now, we
19 have schools that are moving overtime to fully blend in
20 models with that. So that -- that is a transition now
21 that is -- we have one school that is doing multiple
22 tracks with an online -- with a fully online option, a
23 blended option. And I forget what the other one is now.
24 I'm totally spacing.

25 So there's -- so there's -- so there's that

1 intervention that that school is doing, and we're seeing
2 what appears to be some improvement based on that. The
3 grad rate is going from below the statutory minimum of
4 60 percent up into the mid 60's, and we're seeing some
5 additional improvements in some other metrics, as well.

6 We have another school that is going to move
7 completely into the alternative education sector, and
8 will -- and will be a -- and will be the first alt ed
9 charter that is actually under the State's alt ed
10 framework. And we're beginning to see some interesting
11 data there that's beginning to show some -- some gasps of
12 improvement.

13 But there are a couple of other operators for whom
14 we're not seeing this. Either it's not clear that the --
15 that the -- that they're willing to make the changes
16 necessary or that -- or that they're willing to revisit
17 their model. And also just a resistance to -- to the
18 accountability structures that are -- that are being
19 imposed on us as an agency and then, hence, on schools.

20 So I think it's very interesting to sort of see the
21 different context with a nonprofit authorizer that has a
22 great deal of ledger autonomy, and a State -- a State
23 agency -- or a State agency that also has a lot of
24 flexibility comparatively, and then us, who is an agency
25 that is -- that is like most -- like is the case for most

1 agencies in our state, is subject to a significant amount
2 of political -- political and regulatory capture. So I
3 think it's -- it's a really intriguing set of dynamics
4 to -- to parse through.

5 I think the real challenge that we need to figure out
6 is in the cases where schools are not willing to make
7 changes, whether there is in fact a will to actually
8 make -- make really tough accountability decisions.

9 We are currently in a -- in a legal battle with a
10 particular school related to -- related to some
11 accountability actions that my board has taken, and it
12 remains to be seen how that will all work out.

13 MR. SMITH: Great. Thank you. Thank you, all.

14 I want to toss one question to the panel, and then
15 have some conversation.

16 You've all in different ways mentioned the fact that
17 there are very large enrollments in these schools, and
18 that they may be a few schools but have a
19 disproportionate share of your portfolio when students
20 are concerned.

21 If you've got a school where you're grappling with a
22 decision to perhaps close it because of -- of
23 performance, are they too big to fail? I mean, are the
24 consequences too dire, in terms of where all those kids
25 are going to find -- have to find other schools and what

1 the impact on the districts will be and so forth?

2 Does that -- how does that play into your decision,
3 and should it be a factor at all?

4 MS. HOLLIDAY: I'll tell you the nature of the
5 discussion that we've had with our commissioners and a
6 few stakeholders that have a vested interest.

7 If a school -- and I'm sorry I keep standing up.
8 It's a habit, because I'm five feet tall.

9 But in order for a school to be a charter school
10 there has to be a performance contract. If a school has
11 to exist, it's so critical to the educational landscape
12 that it can't be closed, that's not a charter school.

13 So our discussions have been -- and this is not a
14 commentary that says virtual schools shouldn't be charter
15 schools. This is not that. I'm just saying our
16 discussions have been, it cannot be too big to fail and
17 still be charter schools. So for Georgia's part that's
18 the current -- that's the current read.

19 MR. SMITH: Any other thoughts on that?

20 MS. ROBISON: I was just -- we've had discussion
21 specifically in relation to the ECOT lawsuit and the fact
22 that they have 15,000 students, and even though they're
23 not in our portfolio, the impact of that. And we --
24 we've kind of asked ourselves: Do the, you know, the
25 opponents of them existing or staying open -- or any of

1 the virtuals in our state -- do they really realize what
2 they're asking for?

3 Because if ECOT, let's say tomorrow said, "Okay.
4 We're not going to fight this anymore. We're going to
5 close," the public school district, which is Columbus
6 Public in Central Ohio where they are -- their offices
7 are located, and I know they pull a lot of students from,
8 they could potentially get back 6,000 students.

9 They could not take 6,000 students. They couldn't
10 take 600 students at one time like that, because they've
11 consolidated buildings and they've changed things in the
12 landscape since this school opened years ago.

13 So that is a question that we are grappling with,
14 which is: What happens if this stays in place and, you
15 know, eight of the ten close and -- because any of the
16 districts these kids come from, could not take them like
17 that.

18 MR. SMITH: Yeah.

19 MS. ROBISON: And then where would those kids go?
20 And I feel like we would lose -- especially at the high
21 school level. They would just become dropouts. They
22 wouldn't -- they wouldn't go anywhere.

23 MR. SMITH: Patrick, is that part of your
24 conversation?

25 MR. GAVIN: So another contextual piece for us. As

1 many folks know Nevada is a rapidly-growing state. Other
2 than some -- during the great recession, we've generally
3 seen a two -- two to five percent growth per year for
4 most of the last 50 years. And we currently are home to
5 the nation's fifth-largest school district, Clark County
6 School District, Las Vegas, for those of you who have
7 been there.

8 Clark County itself is 20,000 students over capacity.
9 They are by far our largest school district. Most -- in
10 fact, you could add up all the other school districts
11 combined, including me, and I think it would come out to
12 about half -- no, not even -- about 25 percent of the
13 Clark County enrollment.

14 So that is to say there is this -- this dire fear on
15 the part of our -- of our sending districts of what
16 happens if a large virtual school, or if any large -- or
17 any charter school, frankly, is closed. It's the -- when
18 they're -- when we've had schools that have had to
19 surrender a campus or -- because of, you know, whatever
20 issue, including -- including a loss of a lease, the
21 first call I get is from the chief financial officer of
22 the Clark County School District trying to figure out,
23 "Where am I going to put these kids?" So this is -- this
24 is a structural challenge.

25 The other piece of this is, yeah, I mean, we have --

1 I think one thing that we have done historically, we have
2 two operators that agreed at -- at points in the past to
3 cap their enrollment at a certain level, and have
4 actually, in some cases, downward capped over time due to
5 some enrollment management. That -- that may in fact be
6 part of the reason why those schools have seen some
7 academic improvement.

8 I think one question I think we -- if we were to go
9 in and reboot and do this all over again, I think one --
10 one thing we would have to very seriously discuss is --
11 much like with a brick and mortar situation, where if
12 it's a charter school that then wants to replicate at new
13 sites or a new campus or what have you, that growth has
14 to be earned.

15 With the -- one of the great advantages of online
16 learning is that -- is that you can educate five kids or
17 5,000 kids without having to add buildings. The flip
18 side of that is, it also makes it really easy to grow,
19 and grow very aggressively. And we've certainly seen
20 some of that.

21 And it begs the question: Would it be an appropriate
22 policy, especially when essentially what we are doing as
23 authorizers is, we are -- we're educational venture
24 capitalists, we're investing in an educational
25 entrepreneur who -- who then -- and say, giving public

1 funds, public dollars, and the public trust to that -- to
2 that group of entrepreneurs, that founding board, and
3 possibly a service provider they may have. Would it have
4 been more appropriate -- or going forward, as we think
5 about virtual school authorization, should we be saying
6 "No more than a thousand kids at X" -- "with X school
7 until such time as they generate a certain kind of
8 academic return on investment?"

9 I think that is something that would -- that might be
10 a responsible way to think about this issue.

11 But I realize a lot of our operators, you know,
12 just -- they want the market. They want parents to have
13 lots of choice. And I think we all are -- are in the
14 business of providing high-quality options to parents.

15 But I think that growth has to be earned, whether
16 it's in a traditional brick-and-mortar environment or in
17 a virtual environment.

18 MR. SMITH: Great. Thank you.

19 I actually want to try doing some table talk in this
20 very awkwardly arranged room. But before we do that,
21 just for about two minutes -- questions of the sort of
22 clarification nature, you know, particular points that
23 you heard that you want to ask a question about or
24 respond to?

25 Yes, Monica.

1 MONICA: I do. I do. And remind me, Nelson, what
2 states besides Georgia and Ohio. Nevada?

3 MR. SMITH: Georgia, Ohio, Nevada.

4 MONICA: Okay.

5 (Inaudible comment.)

6 MONICA: Would you all expect -- and Bonnie talked
7 about the value-added measure, and Patrick mentioned an
8 alternative framework in Nevada. Would you all expect
9 that schools in your state, if their performance metrics,
10 their state accountability -- whatever their metrics are
11 in that state -- if they were dropped into those other
12 state's mechanisms, that there would be commensurate
13 assessment? If that -- that they would -- if an "F"
14 school in Georgia would also be an "F" school in Ohio and
15 Nevada?

16 MR. SMITH: I -- I don't -- yes.

17 MR. GAVIN: I would guess that, given what our
18 performance looks like as a state, on me, that we would
19 be F-minus. So, I mean, that's just a reality. We
20 have -- there's a lot of conceptual issues for that. But
21 I think that's -- I think it's likely that we would -- we
22 would certainly underperform Georgia, and depending on
23 the -- depending on the tests, we would probably -- we
24 would likely underperform Ohio, as well.

25 MR. SMITH: Any other questions or clarifications?

1 Did I see a hand up there? Yes.

2 UNIDENTIFIED SPEAKER: Yeah, I just -- it's kind of
3 an area I'm not familiar with, and maybe the panel from
4 the National Resource Center can speak to this.

5 Has there been any push on the federal level, the --
6 sort of the regulatory agency on virtual schools? I
7 mean, apparently it's a very state-based ground swell.
8 Is there any movement on the federal level?

9 MS. PANDIT: So I think the -- I don't know of any
10 regulatory agency that this is being contemplated, at
11 least not to my knowledge. I think like a lot of the
12 (inaudible) sector our conversations we've had over the
13 last couple of years have also been trying to understand
14 the issue and trying to frame -- frame it. So we've
15 actually done -- I think we actually did a couple of
16 studies on virtuals over the last couple of years.

17 When this occurred, honestly, the intention was to
18 have a document that hopefully authorizers can adopt. If
19 they can basically say: Okay. We have -- we've involved
20 NACSA, we've involved (inaudible) group of authorizers,
21 we've had involvement with the states, we've had
22 conversations, and then by the end of it we said, as a
23 collective feel, come to some agreement on what I really
24 agree are very important issues, that we can then say --
25 you know, we -- you know, different authorizers can come

1 in and say, "Okay. We adopt this statement."

2 But I don't believe that -- that, at least to my
3 knowledge -- it's something I can't speak for -- but to
4 my knowledge there hasn't been -- it may be coming, but
5 it hasn't -- it hasn't come yet, where they're saying,
6 this is how we will regulate. I think at this point it's
7 very much looking to the sector to say, "Okay. How do
8 you guys think we should handle this?"

9 MR. SMITH: Yeah. I also think they've kind of
10 narrowed the list of things that they are going to
11 concentrate on in the last couple of months of this
12 administration, because it's -- you know, it's their last
13 chance.

14 MS. PANDIT: Yes.

15 MR. SMITH: And then we'll see what happens after
16 January.

17 MS. PANDIT: Yeah.

18 MR. SMITH: All right.

19 MR. GAVIN: I would just add --

20 MR. SMITH: Yes.

21 MR. GAVIN: -- I think the other piece of our work
22 group work has been sort of differentiating, what is the
23 role and responsibility of the authorizer under the --
24 articulating --

25 MR. SMITH: Yes.

1 MR. GAVIN: -- a set of standards or policies on this
2 or proposing this, versus, what is the role of an SCA or
3 a legislature in this?

4 And certainly the SCA role, we think, is really
5 important on this, particularly to the degree that there
6 are these (inaudible) structural issues around data, for
7 example, which were -- in some cases require both
8 regulatory and legislative fixes.

9 MR. SMITH: Good point.

10 Another question?

11 UNIDENTIFIED SPEAKER: Yeah, a quick question. Does
12 the Pendleton (inaudible) Title 1 convolute some virtual
13 issues? And that falls --

14 MR. SMITH: How do you mean that?

15 UNIDENTIFIED SPEAKER: As the change is coming next
16 year? Anything goes, eh?

17 (Multiple voices.)

18 MR. SMITH: Well, actually, I'll answer that, because
19 I'm actually doing a lot of work on that in different
20 capacities at the moment.

21 But I will say that, you know, we had a discussion
22 this morning on qualitative measures under ESSA, because
23 there will be a fifth required measure, metric indicator
24 for the states. It could be school climate -- anything
25 could go.

1 There's a linkage, I think, between that conversation
2 and this one, in terms of: What are we measuring, and
3 how do we use the standard measures? But also, how do we
4 expand beyond that?

5 I don't know of any particular new door opening about
6 regulation or something like that under ESSA.

7 MR. GAVIN: The only thing that really occurs to me
8 is ESSA does explicitly provide for -- authorizes the
9 states to do -- to do something beyond the four-year
10 cohort, a fifth or a sixth or a seventh year.

11 MR. SMITH: Yes. Very important point.

12 MR. GAVIN: The data that we're seeing on this from
13 our existing operators generally shows either static, or
14 in some cases, a decline or a very minor increase, which
15 I think actually begs, really, the question of the
16 operators: What can we -- what can you do to ensure that
17 you're actually getting more kids to -- to stay for that
18 fifth or sixth year, versus having them depart? Because
19 that's clearly something that is going on here. There's
20 a lot of churn that we're seeing in the student data at
21 that level, at those upper reaches.

22 MR. SMITH: Okay. Two quick questions, and then I'm
23 going to -- yes? I'm sorry. You had --

24 BEN: I'm sorry.

25 (Inaudible.)

1 MR. SMITH: Okay.

2 UNIDENTIFIED SPEAKER: I was just going to say:
3 Bonnie, I'm not going to let you off so easy. Just
4 because you mentioned, you know, the commissioners having
5 the perspective of accountability and being consistent,
6 expecting the same outcome across all the schools. At
7 the same time in Georgia there's different inputs as far
8 as funding --

9 MS. HOLLIDAY: That's right.

10 UNIDENTIFIED SPEAKER: -- as far as virtual
11 schools --

12 MS. HOLLIDAY: Yeah. And I put a pin in that at the
13 beginning, but we can take it out now. Don't worry.

14 MR. SMITH: Okay. Yes?

15 MS. HOLLIDAY: Funding is important.

16 UNIDENTIFIED SPEAKER: The other question was that
17 you were talking about -- I'm sorry, I'm with Georgia
18 Cyber Academy. I'm a board member. My name is Ben.

19 You know, you were talking about trying to hang on to
20 students for a fifth or a sixth year basically to -- to
21 get those improved grades into the average, to pull up
22 the average. But, I mean, doesn't it sort of defeat the
23 purpose that maybe after they've improved two or three
24 years that they can go back to bricks and mortar, a
25 parent can go back to work because they don't have to

1 supervise them anymore, and the child has a possibility
2 to get socialization? I mean, I think that's why we're
3 very different than -- from other charter schools.

4 MR. GAVIN: So is that a direct question to me?

5 UNIDENTIFIED SPEAKER: Yes. Yes, it is.

6 MR. GAVIN: So, so at least -- and I believe this is
7 true for just about -- for all the states on the panel.
8 The way -- the way in which our grad rate gets calculated
9 is, if a student moves to another setting, then that --
10 then they don't count against the school.

11 UNIDENTIFIED NSPEAKER: Oh, okay.

12 MR. GAVIN: So it's only if the kid either drops out
13 or goes into adult ed or GED that that is seen as
14 something where you get -- there's less points awarded
15 essentially.

16 MR. SMITH: Yeah.

17 MR. GAVIN: So if the kid is actually going back into
18 a traditional brick and mortar, certainly that's a great
19 victory. If this kid has now gotten re- -- you know, has
20 caught up in some way and they're able to go back into
21 this other environment, that -- I don't think any of our
22 accountability frameworks would hold that against a
23 school.

24 MR. SMITH: All right. I want to quickly try and
25 pivot to a single question. You heard Bonnie talk about

1 all the controls in the value-added model. One of the
2 questions we've been discussing is the notion of adding
3 subgroups.

4 I mean, we always have this conversation about,
5 "Well, your data doesn't capture what our kids are
6 experiencing" because they're highly mobile or because,
7 you know, our kids -- there's an athlete who uses virtual
8 for three months during the year and then goes back to
9 brick and mortar, or these kids have behavioral issues,
10 or an addicted parent, or whatever. And there's that big
11 sort of, you know, amorphous thing of, "We're unhappy in
12 the prior school."

13 If we were to try and capture by additional
14 subgroups -- you know, like calling out the -- how do the
15 specific additional groups of students do -- and they
16 might resemble some of the categories that Bonnie
17 mentioned, for example -- you know, I just tried to
18 quickly write them down -- but you've got prior testing
19 history, gender, foreign-born, ESOL, gifted, kids with
20 IEPs, number of schools attended this year, number of
21 schools last year, attendance prior, late entry. You
22 know, the kids who got there two weeks before tests.

23 If you were to think of what would be the most
24 important two or three of those categories to capture --
25 whether we do it through controls in a value-added model

1 or just by kind of keeping score about how these kids are
2 doing -- what would they be? What would you recommend?

3 Because what -- what we come back to is, all the
4 time, is: Are we counting the right things? You know,
5 we know we have to count certain things because the state
6 accountability requirements mandate that. But what would
7 be the things that we would be trying to capture? And
8 can we get that data?

9 I think Bonnie is in an unusual position because they
10 have such a rich probe of data that you can get your
11 hands on. I'm not sure every state is in that position.

12 Maybe it's better to do this just from call and
13 response at the tables, instead of trying to choreograph
14 getting you all around three groups. All right?

15 So let me ask: Does anybody else -- and I know
16 Monica's got her hand -- yes. We have two very good
17 participants, (inaudible) Monica. I'm hoping for the
18 folks who have...

19 (End of tape.)
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1 STATE OF NEVADA)
) ss.
2 COUNTY OF WASHOE)
3

4 I, MARIAN S. BROWN PAVA, Certified Court Reporter in
5 and for the State of Nevada, do hereby certify:

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12 I further certify that I am not a relative nor an
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15 I declare under penalty of perjury under the laws of
16 the State of Nevada that the foregoing statements are
17 true and correct.

18 Dated this 13th day of October 2017.

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22 Marian S. Brown Pava, CCR #169
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