

NEVADA STATE PUBLIC CHARTER SCHOOL AUTHORITY

March 9, 2016

Nevada Legislature
Room 2135
Carson City, Nevada

And

Grant Sawyer Building
Room 4400
Las Vegas, Nevada

MINUTES OF THE MEETING

BOARD MEMBERS PRESENT:

In Las Vegas:

Robert McCord
Adam Johnson
Elissa Wahl
Marc Abelman
Nora Luna

In Carson City:

Kathleen Conaboy
Melissa Mackedon

BOARD MEMBERS ABSENT

AUTHORITY STAFF PRESENT:

In Las Vegas:

Patrick Gavin, Director, State Public Charter School Authority
Joan Jurgensen, Education Program Professional, State Public Charter School Authority
Nya Berry, Education Programs Professional, State Public Charter School Authority
Traci House, Business Process Analyst, State Public Charter School Authority

In Carson City:

Angela Blair, Education Program Professional, State Public Charter School Authority
Joan Jurgensen, Education Program Professional, State Public Charter School Authority
Danny Peltier, Management Analyst I, State Public Charter School Authority
Tanya Osborne, Administrative Assistant, State Pubic Charter School Authority

LEGAL STAFF PRESENT:

In Las Vegas:

Greg Ott, Deputy Attorney General

AUDIENCE IN ATTENDANCE:

In Las Vegas:

Attendance Sheet Attached

In Carson City:

Attendance Sheet Attached

CALL TO ORDER; ROLL CALL; PLEDGE OF ALLEGIANCE; APPROVAL OF AGENDA

Agenda Item #1 Public Comment

Tony Zeppieri spoke in support of Silver State Charter School. Jake Conway spoke in support of Silver State Charter School. Will Truce spoke in support of Silver State Charter School. Jim Martineau spoke in support of Silver State Charter School. Donna Unsinn spoke in support of Silver State Charter School. Tonya Bates spoke in support of Silver State Charter School. Timothy Libby spoke in support of Silver State Charter School. George Hamilton spoke in support of Silver State Charter School. Delane Pennington spoke in support of Silver State Charter School. Kit Kotler spoke in support of Silver State Charter School. Sheri Rasmussen spoke in support of Silver State Charter School. Kirsten Meekins spoke in support of Silver State Charter School. Anthony Zeppieri spoke in support of Silver State Charter School. Carrie Henson spoke in support of Silver State Charter School. Darnell Michlig spoke in support of Silver State Charter School. Sharon Doan spoke in support of Silver State Charter School. Lisa Gardner spoke in support of Silver State Charter School. Evey Putey spoke in support of Silver State Charter School. Valerie Blake regarding all charter schools and the need for the Authority and the SPCSA staff to support them in any way they can.

Agenda Item #2

Greg Ott, Deputy Attorney General, and Director Gavin began the hearing with the Findings of Fact and Conclusion. Mr. Ott then read the Order Revoking the Charter:

On December 4, 2015, the State Public Charter School Authority (SPCSA), as sponsor of Silver State Charter School (Silver State), commenced a hearing under NRS 386.535 to determine whether the deficiencies stated in the Notice of Closure dated October 26 were corrected to the satisfaction of the sponsor within the specified time. The hearing was continued to January 4, 2016 and Silver State was given until December 10 to submit additional documentation regarding its efforts to cure the deficiencies stated in the Notice of Closure. At the December 4 and January 4 hearings, Silver State was represented by Ryan Russell of Allison Mackenzie, with Kit Kotler, Executive Director, Academics and Christina Saenz, President of the Board of Directors also present. SPCSA authority staff was represented by Executive Director Patrick Gavin. The documentary evidence received and considered by the SPCSA Board Members included the following:

1. Notice of Breach (2 Pages)
2. Forensic Audit Evidence (462 Pages)
3. Notice Of Closure (2 Pages)
4. Summary of Documents Provide by SSCS (3 Pages)
5. Response to Notice of Closure (3 Pages)
6. Additional Evidence Submitted by Silver State on 12/9 (214 Pages)

The Board heard oral testimony which was received at both the December 4 and January 4 meetings as well as public comment on the issues. Based on the totality of this evidence the Board of the State Public Charter School Authority finds and decides as follows:

FINDINGS OF FACT

1. Silver State is a Charter School sponsored by the SPCSA and has existed for 12 years. Its charter having last been renewed in 2010, will expire at the end of the 2015-16 school years.
2. On October 26, The SPCSA sent Silver State a Notice of Closure in accordance with NRS 386.535, notifying Silver State of two separate deficiencies, enumerated fully in paragraphs 1 and 2 of the Notice of Closure but in summary included “a pattern of fiscal mismanagement by current and past staff and members of this charter school’s governing body and the school has failed to comply with generally accepted standards of fiscal management (NRS 386.535(1)(a)(2)).” And that “the school has invested public funds in a high risk financial instrument, namely a derivatives contract, with Bank of America.”
3. The SPCSA notified Silver State that the deficiencies must be cured by November 27, 2015.
4. The SPCSA Board commenced a public hearing to consider whether to terminate the charter contract on December 4, 2015.
5. The public hearing to consider whether to terminate the charter contract was continued by the SPCSA Board to January 4, 2016 and the parties were given additional time (until December 10) to submit documentary evidence to the SPCSA Board.
6. The public hearing concluded on January 4, 2016.
7. Silver State Charter School took several curative measures in response to the Notice of Closure’s deficiency number 1, “a pattern of fiscal mismanagement by current and past staff and members of this charter school’s governing body and the school has failed to comply with generally accepted standards of fiscal management (NRS 386.535(1)(a)(2))” including severing its relationship with Kellie Grahmann, and taking efforts to have an independent accounting firm, Casey Neilon, to reconcile bank statements and prepare monthly financial reports, but the terms and scope of any relationship were not clearly defined as no executed contract was entered into evidence.
8. Silver State Charter School also contacted Cheryl Miller with regard to her acting as bookkeeper until the accounting firm began work, but the terms and scope of any relationship were not defined as no contract was entered into evidence.
9. Though the Board was in the process of undergoing several changes, no changes to the Board were offered as curative measures in response to deficiency number 1.
10. Silver State Charter School engaged in discussions with Bank of America in response to the Notice of Closure’s deficiency number 2, “the school has invested public funds in a high risk financial instrument, namely a derivatives contract, with Bank of America” but did not close the contract in question prior to November 27, 2015.

Conclusions of Law

Based upon the foregoing Findings of Fact, the State Public Charter School Authority Board makes the following Conclusions of Law.

1. Pursuant to NRS 386.535, the sponsor of a charter school may terminate the charter contract before the expiration of the charter if the sponsor determines that the school failed to comply with generally accepted standards of fiscal management or failed to comply with any statute or regulation applicable to charter schools after providing written notice of its intention to the governing body of the charter school.

2. Silver State's governing board was provided notice of the SPCSA's governing board's intent by the October 26 Notice of Closure, which gave the school until November 27 to cure the deficiencies contained in the Notice of Closure.
3. Silver State's efforts to cure the pattern of fiscal mismanagement by current and past staff and members of Silver State's governing body and the school's failure to comply with generally accepted standards of fiscal management did not correct the deficiencies to the satisfaction of the SPCSA Board.
4. Silver State did not to cure the deficiency created by its investment of public funds in a high risk financial instrument, with Bank of America, within the time prescribed in the Notice of Closure to the satisfaction of the SPCSA Board.
5. Silver State, having failed to cure the deficiencies stated in the October 26 Notice of Closure may have its charter terminated by its sponsor in accordance with NRS 386.535.

Order

Based upon the foregoing Findings of Fact, Conclusions of Law and the record herein, IT IS HEREBY ORDERED THAT the charter of Silver State Charter School is terminated at the end of the 2015-16 academic year pursuant to NRS 386.535. Staff of the SPCSA are directed to work with and assist the Silver State Board and staff to assist in the closure of the school in accordance with Nevada law. SPCSA Staff are further directed to submit a written report to the Department and the Silver State governing body as soon as practicable, but in no event later than 10 days of the termination of the charter contract.

Attorney Carrie Parker and Bill Peterson had been retained by Silver State to appeal the closure. Attorney Parker stated the procedures were unlawful and SSCS intended to appeal. Ms. Parker said the due process was insufficient and the order revoking the charter was not clear. She said according to the October 2015 minutes Chair Johnson noted the notice may be unclear and asked SSCS if it understood what needed to be done to cure the deficiencies. Director Gavin said the findings were in the audit that was conducted earlier in the year. Ms. Parker said Director Gavin frequently used the term "we" and "our council" during his testimony. Ms. Parker said there was not a clear distinction in the testimony between the party and the decision maker. She noted NRS 233B prohibited this and that there needed to a clear distinction which did not occur. She said the decision was arbitrary and capricious and the school had substantially complied with the measures to cure the deficiencies. She said the school did as much as they could; new protocols were created, the prior financial manager resigned and the school worked to the best of its ability within the 30 day time window that was given to cure all deficiencies. Ms., Parker said the Authority did not consider the 30 days which included four legal holidays as well as eight weekend days. Ms. Parker said based on this, the school was left with only 19 working days to comply with the measures to cure the deficiencies. Ms. Parker said the order had blurred the lines between not renewing the charter school and revoking the charter. She said the school was told that they didn't have a charter contract and thus needed to apply to the Authority for a charter contract. She said the Authority did not follow the Administrative Procedures act with regard to applying for the charter contract. She said it seemed the Authority had set up the school to fail and it never considered it would be able to cure the matter. She said based upon that, they would request the Authority to reverse all of the decisions made regarding the closure and allow SSCS a fair time to fix the matters identified in the cure order.

Mr. Ott clarified that his role was during the proceeding was council to the Authority board and SPCSA staff had been assigned different legal representation, Shane Chesney, from the Attorney General's office and he apologized for not making that clear for the record.

Ryan Russel, attorney for SSCS, noted that they had provided sworn testimony during the hearing which the Authority did not object to. He said the due process rights had been violated toward the end of the

hearing on January 4, 2016 when Director Gavin supplied various accounts of deficiencies of SSCS which he was denied to address during the hearing. He Said Ms. Parker noted that the entire process was completely, and fundamentally, flawed. Mr. Ott asked Mr. Russell if there was other evidence and testimony that the school would like to enter into the record if they felt they had been denied. Mr. Russell said since the matter was now being considered for judicial review and that evidence was not allowed at the January 4 meeting, they would decline to enter additional evidence and testimony regarding that meeting during the hearing today. He also noted the school had submitted substantial evidence within the given timeline and it was not given proper consideration at the January 4 meeting.

Member Conaboy asked Mr. Russell about what substantial compliance meant. Mr. Russell said substantial compliance is a term of art used under any contractual interpretation or statutory compliance. The example he used was the closure of the derivatives account which the bank required additional documentation. He noted the school had taken substantial action to close the account within the given timeframe and the bank's timeline their control, thus showing substantial compliance.

Chair Johnson then asked for Authority deliberation regarding the documents submitted by SPCSA staff and representatives of SSCS. Member Conaboy asked Mr. Ott to comment on the use of charter contract in the Order to Revoke which SSCS had objected to. Mr. Ott said it was a reasonable objection and the Authority could consider changing the term to written charter which would make the document clearer. Member Conaboy asked if it was necessary to consider the findings and fact of law since SSCS was going to appeal this decision. Mr. Ott said the Authority was not required to, but the findings at the January 4 meeting made the Authority's intentions clear and it would not be problematic to still consider the order at the current hearing. Mr. Russell also noted the Authority was required to consider the decision which would then allow for SSCS to pursue judicial review. Mr. Russell contended that the makeup of the board should not have been contained in the findings of fact because it was not listed in the deficiencies that needed to be cured. Chair Johnson asked Mr. Russell if during the meeting on January 4 they wanted to note that the makeup of the board should not be considered for the findings of fact. Mr. Russell said that was correct and they noted at the hearing that the audit had identified two individuals which the school had terminated. He said the governance of the school was listed in the audit which they felt should be explained at the hearing, but it should not be considered in the findings of fact, because it was not a deficiency that was required to be cured at the January 4 meeting.

Member Conaboy asked Mr. Ott if there was any legal authority for the Authority Board to consider Dr. Kotler's request for a one year probationary period. Mr. Ott said he could not find anything in statute that would allow for a one year probationary renewal and thus did not think it would be considered legal under NRS. Discussion continued regarding the curative measures and whether they should have been included in the Findings of Fact.

The Authority and representatives of SSCS discussed the possibility of working on a renewal document that would have stipulations included if the renewal was approved the Authority. Member Conaboy asked if SSCS had submitted a renewal application. Director Gavin said the school had submitted a renewal application and staff would be working with the school on their application. Chair Johnson asked if there was an alternative to considering the revocation until more information was provided. Mr. Ott said the Authority could amend the Order and change the directive from revocation to something different in the Authority chose to. Mr. Russell said that would be agreeable for the school and said the action today could be that the revocation matter be addressed later and the Authority could direct SPCSA staff to work with SSCS regarding the renewal document and the provisions contained within. Mr. Russell added that SSCS was in no way directing the board on their decision, but if it did consider alternative options then SSCS would request a vote that would allow for both parties to discuss a different path.

Chair Johnson called for a 10 minute recess. The meeting recessed at 10:29 am.

The meeting reconvened at 10:40 am

After councils of both the Authority and SSCS spoke, Mr. Ott said then school would be willing to work with SPCSA staff and councils of both schools would work together to come to an agreed upon provision regarding the renewal of the school with a one year probationary provision. Mr. Russell added the school would respectfully request a motion with direction to its legal counsel to consult with SSCS council regarding the agreed upon terms of the renewal. The Authority, SPCSA staff and counsel for SSCS continued discussion regarding the legality and timeline of a motion that would direct the two parties to meet regarding the renewal of the school and provisions contained therein.

Member Conaboy asked about the differences in consideration of the Findings of Fact and the renewal decisions and the differences in the scope of each. She said she felt before the attorneys would begin settlement dialogue it should be clear what the settlement terms would be and how that would affect the Findings of Fact and Order that was before the board today. Member McCord agreed that the decisions of the renewal should not be combined with the decisions before the board today. Mr. Russell said there was a global resolution that may be agreed upon that would consolidate the renewal decision along with the Findings of Fact that may be settled upon which would allow for both matters to be addressed simultaneously. He said if the school and the Authority could come to an agreement regarding the renewal with provisions, those provisions could be negotiated between both parties. However, if the Notice of Closure were the only stipulation to be considered, it would only allow for the Authority to consider the items listed in the Notice of Closure. He said it would be best for the Authority to have a litigation meeting so that it may provide the parameters of settlement to Mr. Ott before he would enter into any negotiations with the school regarding settlement. Otherwise, the Authority may agree to the renewal with conditions and then deny the renewal application. Mr. Russell said this is why there would be the need for a global resolution that would take all matters into consideration, because if that was not going to be the case the school would still wish to pursue judicial review.

Member Mackedon suggested if procedurally the Authority had made missteps then maybe the Authority should just move onto the renewal so that there were not conflicting paths that may be in conflict with one another. Mr. Ott noted that objections had been raised by the attorney's representing SSCS and although those objections had been raised, it may not be considered illegal under a judicial review. Chair Johnson asked Mr. Ott what options he had discussed with the school during the recess. Mr. Ott said he thought he heard the Authority's interest in pursuing the renewal with a one year probationary period. Counsel of the school expressed that the renewal would have to be approved as a condition of the agreement between the Authority and the school. Mr. Ott said he had envisioned a directive from the Authority to direct him to negotiate a probationary period if the renewal was approved and not including the renewal approval as a condition of the original agreement. He said he had discussed that idea with counsel for the school so he was not sure if the school would agree to that settlement. Mr. Russell said that he, like Mr. Ott, did not have the power to compel his board to an agreement, and said he did not think he was taking a position one way or the other regarding the details of a settlement. He said his point was that SSCS was open to any and all options that would allow the school to continue to work with SPCSA staff and remain open to allow it to show the Authority of the improvements it had made.

Chair Johnson said he would like the Authority to consider what action it was going to take for the agenda item. He said the options the Authority would need to consider would be to either accept the Order as agenda item or direct Mr. Ott to enter into negotiations with counsel of SSCS to negotiate the

terms of a settlement regarding both the Order and renewal decisions. Member Conaboy asked if the SSCS board was able to enter into negotiations for SSCS because the makeup of the board had been in questions. Kit Kotler, administrator of SSCS, confirmed the board would be able to enter into discussions.

Member Luna left the meeting at 11:02 am.

Member Conaboy moved that the Authority continue with today's action and direct Deputy Attorney General Greg Ott to pursue negotiations with the Silver State Charter School board to reach a stipulated agreement or revised order. Member McCord seconded. Chair Johnson called for a roll call vote:

- **Member McCord – Aye**
- **Member Conaboy – Aye**
- **Member Abelman – Aye**
- **Member Wahl – Aye**
- **Chair Johnson – Aye**
- **Member Mackedon – Nay**
- **Member Luna – Absent**

The motion carried 5 – 1.

Mr. Ott added that it would be necessary for him to have a call with the Authority Board members during a non-meeting to discuss the terms that had been offered by the school.

Member McCord asked that a special point be made that the Authority Board had made a decision in good faith based on a recommendation from Silver State's counsel and that he hoped the school would move forward in good faith with its negotiations with Mr. Ott and subsequent hearings before the Authority based upon those discussion. He said he hoped this matter was resolved sooner rather than later.

Member Abelman said he felt this Authority stands for high performing charter schools and that the decisions it makes be based upon ensuring that high quality charter schools operate in Nevada and provide the pupils of Nevada with quality educational options and not make decisions based on threatened litigation.

Member Mackedon said that seems to be misunderstanding regarding the role of the State Public Charter School Authority. She said the role of the Authority was not to educate the children and assist the schools in doing a better job. She said the role of the Authority was to authorize high quality charter schools and sound fiscal management.

Chair Johnson said he felt that the Authority is all for pupils in Nevada receiving quality education. However, the adults in charge need to be held accountable if the delivery of that education is not of high quality.

Agenda Item 3 –Public Comment

Ben Salkowe was unable to deliver his public comment but submitted into writing testimony from him and Equipo's board chair which would be distributed to the Authority Board Members.

Member Abelman moved for adjournment. Member Conaboy seconded. The motion passed unanimously

The meeting adjourned at 11:18 am

State Public Charter School Authority

Meeting

Carson City

3-9-2016

Name	Representing	Email Address for SPCSA List serve
Portia Libby	Silver State Charter School	daytunnena@yahoo.com
Timothy Libby	Silver State Charter School	" "
Kit Kotler	" "	kkotler@sshs.org
Tonya Bates	Student @ SSCHS	tonya.batesiii@hotmail.com
Tony & Leslie Zeppieri	SSCHS	Lesliezep@charter.net
Catherine Cook	SSCHS	catecook@yahoo.com
Sheri Rasmussen	Parent	sherilyn1962@yahoo.com
Donna Vasinn	SSCS	dunsinn@sshs.org
James Martin	SSCS	martineup@vubell.net
Delane Pennington	SSCHS	dpennington@sshs.org

George Hamilton.	Silver State Charter School	N/A.
Ryan Russell	"	
Carrie Parker	"	
Kirsten Meekins	Silver State Charter	
Jim Flores	new/kir/NUVA	
Christina Saenz	Silver State Charter School	
Will Tracie	Silver State Charter School	
Jake Conway	Silver State Charter School	
Carrie Dawson	Silver State Charter	
Jonathan Anguila	Silver State Charter School	N/A
Lisa Gardner	self	mindalis@charter.net
Evie Bowles	Silver State	

VISITOR'S CARD

Nevada State Public Charter School Authority

Meeting

Welcome... PLEASE PRINT LEGIBLY all information in full so that we may maintain accurate records.

Date 3/9/16
Name TINA REPPENHUT rep peer e
Title Parent
Address 998 Haystack Dr
Carson City NV 89705

Phone No. _____

Representing _____

Subject _____

☒ I Request To Speak

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VISITOR'S CARD

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Welcome... PLEASE PRINT LEGIBLY all information in full so that we may maintain accurate records.

Date 3-9-16
Name Jake Conway
Title Teacher
Address 788 Fairview Dr.
Carson City, NV 89701
Phone No. 883-7900
Representing SSCS
Subject _____

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Date 3-9-16

Name Will Truce

Title Teacher

Address 788 Fairview Dr,

CC, NV 89701

Phone No. 883-7900

Representing SSCS

Subject _____

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Date 3-9-16
Name Jim Martineau Martino
Title Teacher
Address 788 Fairview Drive
C.C. NV. 89701
Phone No. 775-883-7900
Representing SSCS
Subject _____

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Date 3-9-16
Name DONNA VASINA UN SIN
Title Admin. Asst.
Address 788 Fairview Drive
CC, NV 89701
Phone No. 883-7900
Representing SSCS
Subject _____

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Date 3/9/16
Name Tonya Bates
Title Parent
Address 208 Garret Circle
Mound House, NV 89706
Phone No. 775-284-4788
Representing Student @ SCAHS
Subject Keeping the school open.

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Date March 9, 2016

Name Timothy Libby

Title Student of Silver State Charter

Address 260 Walmesley Ct.

Dayton, NV

Phone No. 775-246-1578

Representing Silver State Charter School

Subject SSCS

7th - sophomore

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Date 3-9-16
Name George Hamilton
Title Bus Driver Superintendent
Address 788 Fairview Dr.
Carson City, NV 89701
Phone No. 883-7900
Representing SCS
Subject _____

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Date 3/9/16
Name Delane Pennington
Title Director of Special Services
Address 788 Fairview Dr.
Carson City NV 89701
Phone No. 775-883-7900
Representing Silver State Charter
Subject In Support of Silver State
Charter

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Date 3-9-16

Name Kit Kotler

Title Exec. Dir. Academics

Address Silver State Charter Schools

Phone No. 419-1660-8888

Representing SSCS

Subject SSCS

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Date 3/9/16
Name Sheri Rasmussen
Title _____
Address 443 Chateau Dr
Carson City NV 89701
Phone No. 703-434-5786
Representing Parent of SSHS Student
Subject _____

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Date 3/9/16
Name Kirsten Meekins
Title Teacher
Address Po Box 1173
Virginia City NV 89440
Phone No. 775 3150273
Representing Silver State Charter
Subject _____

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Date 3/9/16

Name Anthony Zeppieri 2nd grade

Title Student 10th grade

Address 998 Haystack Dr

Phone No. 775-450-2763

Representing Nevada State Charter School

Subject ~~School Closures~~ Schools Pending closure

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Date 3-9-16
Name Carrie Henson
Title Secretary
Address 788 Fairview Dr.
Carson City, NV 89701
Phone No. 883-7900
Representing SSCS
Subject _____

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Date ~~0000~~ ~~0000~~ 3-9-16
Name Darnell Michlig
Title Bus Driver
Address 788 Fairview Dr.
Carson City, NV 89701
Phone No. 883-7960
Representing SSCS
Subject

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Date 3-9-16

Name Sharon Doan

Title Bus Driver

Address 788 Fairview Dr.

CA NV 89701

Phone No. 883-7900

Representing SSCS

Subject _____

☒ I Request To Speak

☐ I am a scheduled speaker

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2 people
//

VISITOR'S CARD

Nevada State Public Charter School Authority

Meeting

Welcome... PLEASE PRINT LEGIBLY all information in full so that we may maintain accurate records.

Date 3/9/16
Name Lisa Gardner
Title parent
Address _____

Phone No. 781-0781
Representing self
Subject SSCS

- ☒ I Request To Speak
☒ I am a scheduled speaker
☐ I am a visitor

3/9/16

Evie Boutte
grandmother / guardian
884-1368
Rep: SSCH
SSCS - appeal

• Request to speak

~~XXXXXXXXXX~~

3-9-16

Sonathan Ampudia, Finance Asst.

788 Fairview Dr.
CC, NJ 089701

775-883-7900

For SSCS